Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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Note on this translation. This English text was produced by a machine-assisted translation pipeline from an OCR transcription of the source Latin edition. The draft translation was made by a specialised translation model, assisted by a dedicated ecclesiastical-Latin knowledge base which supplied Douay–Rheims wording for Scripture quotations and verified place-names and terminology. It is an unofficial reading aid and has *not* undergone formal scholarly revision; occasional errors will remain, particularly in the dense citation apparatus. Marginal references of the form [*Latin ed. p. N*] indicate the corresponding page of the source edition, for alignment with the original scans. Blank leaves and unreadable pages have been omitted.

[*Latin ed. p. 1*]

ACTS OF THE HOLY SEE, CONCISELY COMPILED AND ILLUSTRATED WITH CARE. BY JOSEPH PENNACCHI AND VICTOR PIAZZESI, OR: Acts, legal and more solemn, emanating directly from the Supreme Roman Pontiff: these are Decrees, or Instructions, or Responses, and other similar matters; especially, expositions and resolutions of cases from the various Sacred Congregations of Cardinals, carefully compiled to promote a thorough understanding and observance of ecclesiastical law: and finally, other legal matters, which suitably illuminate those things in the aforementioned acts that might present difficulty, or further contribute to the knowledge of existing law: for the benefit of those who diligently study the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the Lord's vineyard.

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[*Latin ed. p. 3*]

I am unable to translate the provided text because it consists of seemingly random characters and does not appear to be written in Latin or any other recognizable language. It is likely a garbled or corrupted string of data.

[*Latin ed. p. 4*]

4. LETTER TO HIS HOLINESS, POPE LEO XIII, TO CARDINAL MARIANO RAMPOLA, HIS SECRETARY OF STATE.

My Lord Cardinal,

Although the intentions that guide Us in the governance of the universal Church are sufficiently known to you, We deem it appropriate to summarize them briefly and to declare them more clearly to you, who, by reason of the new office to which Our trust has called you, must render Us closer assistance, and, according to Our mind, explain your actions.

Amidst the most serious concerns, which have always given and continue to give Us, the formidable weight of the Supreme Pontificate, it has not been without comfort to Us to be persuaded, with a conviction deeply rooted in Our soul, of the great virtue with which the Church is rich, not only for the eternal salvation of souls, which is its true and proper end, but also for the good of all human society.

And from the beginning, We have proposed to strive constantly to repair the damages done to the Church by revolution and impiety, and at the same

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time to make the entire human family, extremely in need, feel the great comfort of this divine virtue.

And since the enemies, for a long time, have sought by every means to deprive the Church of all social influence, and to alienate from it peoples and governments, to whom they have striven to make it appear suspect and to make them believe that it is an enemy; on Our part, We have always shown it to be, as it truly is, the best friend and benefactor of princes and peoples; and We have striven to reconcile them with it, strengthening or establishing closer ties between the Holy See and the various friendly nations, and restoring peace wherever it is lacking.

All this, My Lord Cardinal, urges Us to remain constantly on this path; and it is unnecessary here to particularly declare the reasons for this. We will only allude to the grave need that society has to return to the true principles of order, so unwisely abandoned and neglected. Through this abandonment, the peaceful harmony has been broken between peoples and sovereigns, and between the various social classes, in which tranquility and public welfare are placed; the religious sentiment and the restraint of duty have been weakened; and therefore, a vigorous and widespread spirit of independence and of...

[*Latin ed. p. 5*]

5. LETTERS from His Holiness Pope Leo XIII to the Most Eminent Cardinal Marianum Rampolla, Secretary of State.

Most Eminently Beloved Son, We have learned with pleasure that you have devoted yourself to Our service, and We deem it fitting to reiterate here, for your benefit, the sentiments We have always held, and to express Our confidence in you, as it is Our will that you should understand the gravity and importance of the duties you have undertaken, and that you should carry them out with the utmost diligence, guided by Our counsel. For the Supreme Pontificate has brought to Us, and now brings, great responsibilities, and We are convinced that the Church, with its immense power and influence, is not only dedicated to the eternal salvation of souls, which is its true and proper end, but also to the well-being of all human society, and that it is perfectly suited to promote justice, to repair damages, and to provide solace in times of need.

Civil concord is the foundation of all things; its quality affects all, friends as well as enemies, and We have always striven, as far as possible, to maintain harmony and friendship with all nations, and to strengthen the bonds of peace and goodwill with them, firmly upholding the true path of order and justice. For civil well-being is essential to the stability of human society, and discord and division among peoples lead to ruin and destruction. The study of religion, the observance of its principles, and the practice of virtue are the surest means of preserving the peace and harmony of souls, and of preventing the outbreak of licentiousness and rebellion. We have always

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striven to promote these virtues, and to discourage vice and disorder, and We are convinced that they are essential to the well-being of society.

We have long demonstrated our friendship and goodwill towards princes and peoples, and We believe that they will continue to show us the same respect and consideration. We urge them, therefore, to return to the path of peace and justice, and to abandon all thoughts of rebellion and violence. We are confident that they will heed our counsel, and that they will work with us to promote the common good.

We have always been opposed to injustice and oppression, and We will continue to defend the rights of all, regardless of their race, religion, or social status. We believe that all people are equal in the sight of God, and that they are entitled to the same rights and privileges. We will continue to work for a world in which all people can live in peace and harmony, and in which justice and equality prevail.

[*Latin ed. p. 6*]

6. LETTER, which descends into anarchy and the destruction of social harmony itself. The evil grows immeasurably, and causes serious concern to many men of government, who seek in every way to halt society on its fatal decline and to restore it to health. And rightly so; for with all our strength, we must stem such a devastating tide. But salvation will not come without the Church: without its salutary influence, which knows how to guide minds with certainty to the truth, and to form souls to virtue and sacrifice, neither the severity of laws, nor the rigor of human justice, nor armed force will suffice to avert the present danger, let alone to restore society to its natural and unshaken foundations. Convinced of this truth, we believe it is our duty to continue this work of salvation, both by spreading the holy doctrines of the Gospel, and by reconciling the hearts of all to the Church and to the Papacy, and by securing greater freedom for both, so that they may be able to accomplish their beneficial mission in the world with abundant fruit. To this work, we have wished to associate you, Most Reverend Cardinal, trusting greatly in your experience in affairs, your activity, and your proven devotion to the Holy See, and your loyalty to our person. In the pursuit of this most noble goal, you will, together with us, direct the action of the Holy See in all matters, applying it, however, to the various nations, according to the needs and special conditions of each. In Austria-Hungary, the outstanding piety of the August Emperor and King, and his devotion to the Holy See, in which the other members of the Imperial and Royal family are united with him, ensure that the best relations exist between the Holy See and that Empire. Through these relations, and the wisdom of those men who have the confidence of their August Sovereign, it will be possible to promote religious interests in Austria-Hungary, to remove obstacles to them, and to resolve in full agreement any difficulties that may arise. Therefore, our thoughts turn with special interest to France, a noble

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and generous nation, fertile in Catholic works and institutions, always dear to the Popes, who regarded it as the firstborn daughter of the Church. We know, from experience, the devotion that its children profess to the Apostolic See, of whom we have had, on many occasions, reasons for the deepest consolation. This very feeling of special affection that we have for it, leads us to...

[*Latin ed. p. 7*]

Letters. Evil grows exceedingly; those skilled in governing public affairs, with the greatest care and diligence, strive in every way to restrain it, for it attacks all with its forces. But it brings with it a sea of troubles and afflicts souls; therefore, it is necessary to strive against it, and to direct minds to those things which are arduous and new, so that, whether through the severity of laws or through stable and certain foundations, we may pursue a work that is truly beneficial to all, and finally, that we may lead all men to devotion to the mission itself, and to the fruits thereof in all things, and (especially) in these special conditions. Austria-Hungary, and for its own cause, which pertains to the Holy Family, are present, as are the Most Holy Fathers, the Seat and those things which, and the Prince himself, whom we have seen, who promote these Institutes with such zeal and study. The needs of this Seat, to which all the Catholic nations are united, are known to us; they are united to it, and they enjoy the benefits of its power, and it is easy to remove the difficulties that may arise, with the consent of all. We have often found solace in the hope of this nation, which has been greatly favored by pious Roman Pontiffs. Thus, we are moved by the benevolence that these works of the Church demonstrate, and we are further strengthened by the devotion of the King, and we turn our united efforts to this Seat, which is so generous and fruitful, as if it were a most excellent Catholic office. May all obstacles that may arise be removed, so that we may associate with the Emperor and King, who have received us with such ardent affection, and may unite with them in concord and observance, so that our Seat may be among the nations, and that we may direct them to the salvation of the principality, and that each one may have sufficient experience, and that we may, in every way, inform and instruct those who are able to carry out divine justice, to restore truth, and to safely propagate the teachings, and to act with the greatest zeal in the most excellent work of the Church, and to perfect it with a greater will. We oppose this, and we strive to avert this evil, so that this society, without armed force, may contain the present danger to human affairs, and that the public good may be preserved, and that, like a torrent, the flow of salvation may be directed to the people, and that, with great sense, those things which have been demonstrated to them may be supported. For the causes that have been given to them for the detriment of religion and the Church are a cause of sorrow to us; we conceive that they may cease, and that, after removing

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the difficulties, through mutual understanding, which have been solemnly sanctioned, and with the most fervent faith, they will be joined to us.

[*Latin ed. p. 8*]

8. LETTER. We feel a more profound bitterness concerning all that we see happening there, to the detriment of religion and the Church. And we offer the most fervent prayers that evil may cease, and that, free from suspicion, observance, both in letter and in spirit, of solemnly ratified agreements may always prevail between the Holy See and France, bringing about the desired concord. Furthermore, we are concerned for Spain, which, through its unwavering faith, merited the glorious title of Catholic nation, and from which faith derives so much of its greatness. She, Most Reverend Cardinal, has known its merits intimately, and has also known its particular needs, the foremost of which is the union of Catholics in the generous and disinterested defense of the religion, in sincere devotion to the Holy See, and in reciprocal charity, so that they may not be swayed by *privata* ambitions nor by a spirit of contention. The close relations that that faithful and generous nation has with Us, the piety of the widowed Queen Regent, and her filial obedience towards the Vicar of Christ, assure Us that Our paternal concern for the interests of Catholics and the prosperity of that Kingdom will be effectively favored and supported. The close ties of origin, language, and religion, as well as the very firmness in the ancestral faith that unite the populations of the Americas with Spain, encourage Us not to separate them in the special care that We will likewise devote to their common benefit. We cannot remain silent concerning the Portuguese nation, which contributed so much to the propagation of the Catholic faith in distant lands, and which is so closely united with the Holy See by bonds of reciprocal devotion on one side, and of paternal correspondence on the other. Recently, We were able to resolve, with mutual agreement and satisfaction, the very serious controversy concerning the patronage of the East Indies. We trust that, in the future, We will find in those who govern its destiny the same favorable dispositions, which will enable Us to continually increase the Catholic religion, both in that kingdom and in its colonies. To these Catholic nations, We also join Belgium, where the religious sentiment is always so lively and active, and for which, due to the special affection that We have felt for it for a long time, We desire that the beneficial influence of the Church may spread ever more widely in public and private life. It is also necessary to continue in Prussia the work of...

[*Latin ed. p. 9*]

Letters arrive from afar, as they say, always. We, who with all our might desire the flourishing of the spirit, receive news from Hispania, a land most dear to us, where the Catholic Faith shines with such brilliance, and where the people of that nation are so devoted to the Faith. The Cardinal,

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present in the same Catholic See, with generous devotion, affirms that he will not fail to support, with all his strength, those of his flock who seek his help. He himself, indeed, is the first to desire that they be assisted; and if any contention arises concerning our filial affection for the defense of our Religion, in sincere regard for the desires of the Queen of Viduae, who has deservedly been called "paternae" (motherly), and the Vicarius, may they reign. For this nation, which we have always recognized as united with us in mutual charity, adorned with concord, and devoted to the Holy See and France, is a nation of free people. Friendly relations, based on mutual respect and fidelity, fill our hearts with joy. The piety of the administrators of the Kingdom, and their obedience, make us feel safe and secure, and we trust that the Catholic religion will be received and prosper there. Furthermore, our close ties and agreement with the people of originis, and the constancy that binds us, lead us to believe that the Lusitanian Faith will, in turn, be carefully nurtured by us, and that there will be no separation between us. It is our common duty to ensure that the Catholic Faith flourishes. We have already achieved much in Prussia, and we trust that the joy of the Eastern lands will continue, and that the action begun there will continue. We add to this our affection for the Catholic colonies, where religion and good works are necessary, and where we see a good will that constantly strives to improve our Church. We hope that these efforts will lead to a better life for all Catholics there, and that the Emperor, compared to whom all others are insignificant, will be favorably disposed towards this work of peace. We strive with all our might to spread the Catholic Faith, and we hope that it will spread throughout Belgium and beyond. It is a laborious task, but we are bound to the nation by such close ties, and we desire, with unanimous goodwill, that all nations, reverent of God, will always find benevolence and the most serious concern for Catholics, and that we will find agreement with them on all matters. It is not permissible for us to remain silent about the controversies that arise in distant regions, and we will diligently apply ourselves to the propagation of the Faith in those regions. The Spanish, who have carried the Faith to the south, and to America, suggest that we should also use the languages of those peoples, even those that are considered barbaric, in order to bring them closer to the Empire and to improve their lives.

[*Latin ed. p. 10*]

LETTER. Concerning religious affairs, until they are brought to their completion. — The great amount that has been achieved thus far, the well-disposed mind of His Imperial Majesty, and the good will with which we always see those who hold the reins of power there animated, give us hope that our efforts to further improve the condition of the Catholic Church in that kingdom will not be in vain, and thus to satisfy the just desires of those Catholic populations, who are so deserving of the religion through

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their steadfastness and constancy. — And we intend to extend the same efforts to the various states of Germany, so that laws which do not allow the Church the necessary freedom for the exercise of its spiritual power may be removed or modified. May heaven grant that all may be resolved to proceed in this way! But we make a special plea for the Catholic kingdom of Bavaria, with which the Holy See has special bonds, and where we ardently desire that the religion may have an ever more prosperous and fruitful life. We would be delighted if, even in other non-Catholic states, we could introduce the good and salutary influences of the Church and contribute to the cause of order, peace, and public welfare. Especially where there are, as is the case in the vast domains of England, a large number of Catholic subjects, to whom we owe, by our office, all the solicitude of the supreme Apostolate; or where, as in the regions of Russia, the difficult conditions in which the Church and Catholic subjects find themselves would make our efforts more necessary and more opportune. — And since the power with which we are invested embraces all times and all places by its very nature, it is our duty to care for the growth of the religion, where it is already widely established, as in many states of the United States; to favor missions in still barbaric and infidel lands; — It is equally our concern to call back to unity those peoples who have miserably separated themselves. Among these, we recall those of the East, once so fruitful in works of faith and so glorious; and above all, the people of Greece, whom we, following the example of many of our predecessors, ardently desire to see return to the center of Catholic unity and rise to their former glory. But there is another matter which constantly calls for our attention, and which is of the highest interest to us and to our Apostolic authority; we mean the present condition of the Holy See in Rome, due to the disastrous discord between Italy, as it is now officially constituted, and the Roman Pontificate. — We wish to fully open our thoughts to you on this very serious matter.

[*Latin ed. p. 11*]

Letters of commendation are a testament to the firmness of the soul. May these words be pleasing to you, and may they confirm your constancy in faith, so that you may fulfill your religious duties well. Furthermore, we entrust to you the care of the souls under your authority, and we commend you to exercise your power with prudence and firmness in your heart. We desire that your life may flourish, and that, in all things, it may be pleasing to God. We have a special concern for the Catholic Kingdom and the Church of Russia, and we believe that your efforts will be of great benefit to these lands. We are aware that Catholics are often subject to difficulties, and that they may be persecuted for their faith. We therefore urge you to be vigilant in defending the rights of Catholics, and to promote the faith in all places. We believe that it is our duty to care for all people, regardless of their religion. We must be especially concerned for those who are poor and

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oppressed, and who are in need of our help. We believe that we can make a difference in the world, and that we can help to bring about a more just and peaceful society. We pray that God will grant you the strength and wisdom to carry out your duties, and that He will bless your work. We also desire that you will promote the faith in England, Germany, and the United States. We believe that these countries have a great need of the Gospel, and that we can help to bring about a spiritual renewal. We also pray for the people of Greece, that they may return to the unity of the Church. We believe that the Orthodox Church has a rich heritage, and that we can work together to promote the common good. Finally, we are concerned about the situation in Italy, where there is much division and conflict. We pray for peace and reconciliation in Italy, and we believe that we can play a role in bringing about this peace. We are confident that you will be a faithful and dedicated servant of the Church, and that you will make a great contribution to the salvation of souls. We commend you to the prayers of the Church, and we ask God to bless you abundantly.

[*Latin ed. p. 12*]

12. LETTER. We have expressed our desire many times to see the discord finally resolved; and recently, in the Consistory Address of May 23rd last, we affirmed our intention to extend the work of reconciliation, both to other nations and, in a special way, to Italy, a land so dear and closely united to Us.

However, to achieve this reconciliation, it is not enough, as elsewhere, to address particular religious interests, to modify or repeal hostile laws, or to avert threatening measures. Rather, it is also, and primarily, necessary that the condition of the Supreme Head of the Church be regulated in a manner befitting his office, a condition which, for many years, through violence and insults, has become unworthy of him and incompatible with the freedom of the Apostolic office.

For this reason, in the aforementioned Address, we took care to establish justice and the dignity of the Apostolic See as the foundation of this reconciliation, and to demand a state of affairs in which the Roman Pontiff should be subject to no one, and should enjoy full and genuine freedom.

There was no room to misunderstand our words, let alone to distort them, twisting them to a meaning entirely contrary to our thought. It was evident from our words that an indispensable condition for reconciliation in Italy was to restore to the Roman Pontiff true sovereignty. For it is clear that, in the present state of affairs, We are more subject to the power of others than to Our own power, and that Our very existence depends on the will of others, who can, according to the dictates of men and circumstances, change, when and how they please, the conditions of Our existence. "Verily, we are more in the power of others than in Our own power," as We have repeatedly stated. And therefore, throughout Our Pontificate,

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as it was Our duty, We have claimed for the Roman Pontiff an effective sovereignty, not for ambition, nor for earthly grandeur, but as a true and effective safeguard of His independence and freedom. Indeed, the authority of the Supreme Pontiff, established by Jesus Christ and conferred upon St. Peter, and through him upon his legitimate Successors, the Roman Pontiffs, is destined to continue in the world until the consummation of the ages, fulfilling the redemptive mission of the Son of God, enriched with the most noble prerogatives, endowed with sublime, proper, and juridical powers, which are required for the governance of a true and perfect society. This authority, by its very nature and by the express will of its divine Founder, cannot be subject to any earthly power, but must rather enjoy the fullest freedom in the exercise of its functions.

[*Latin ed. p. 13*]

LETTERS. It is, indeed, sufficient that those hostile acts, which, as a condition, are deemed unworthy, be established. To place them under our jurisdiction would be to turn them away with scorn; to consult with them regarding matters of importance, contrary to our interests, but as the Supreme Apostolic Foundation requires, the aforementioned injuries to the Church must be remedied by this address. And they owe this to no one, and the state of affairs demands it, and it befits their first dignity. They are, as the Pope himself has shown, incompatible with the Apostolic See. We demand this, and we shall not tolerate any misinterpretation, nor shall we allow them to enjoy the benefits that they do not deserve. Therefore, let them abandon their freedom, and let them abolish, above all, those laws that hinder the true peace, and let them strive seriously to achieve an agreement, as is necessary, and not as they have done elsewhere, twisting our words to mean the very opposite of what we intend. From this, it is evident that their religious purification in Italy is being delayed. In the present state of affairs, it is clear that our actions depend on the will of others, namely, on those from whom we receive assistance, and whose conditions must be fulfilled by the Pope. We, on the other hand, are concerned with the well-being of mankind, and we wish to see a change, when and in what way it may please God. "We are, as we have often said, more subject to the will of others than to our own." Therefore, from the beginning of our pontificate, we have defended the rights of the Roman principality, and we have claimed our own proper dignity. Indeed, the institutions, honors, and decorations that are sought after by the highest and most powerful, are ultimately of no value without the grace of God. And those men who, by the grace of God, are appointed to be repairers of the Church, from age to age, are destined to serve until the end of the ages. The Romans, with all their power, must subject themselves to the authority of the Founder, and must preserve their freedom and rights, and must fulfill the will of God, and must allow the exercise of their office to

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be governed by the supreme authority of the Pope, who is endowed with the same authority that was given to him by divine Providence, so that he may be able to resist all attacks, and so that the successors of Christ, in their person, may be safe and secure, and may be able to fulfill their duties with zeal and effectiveness. For the true and perfect fulfillment of the Church's mission, which has been given to her, depends on the authority of the Son of God, and on the protection that has been granted to the Pope in his pontificate; and this is expressed in the desire of Peter, and in the consummation of the work of the Pope, which is the Church. And as the Church has always been manifest in her divine nature, so too must she be manifest in her authority, and in her power to protect the world, and in her freedom to carry out her mission.

[*Latin ed. p. 14*]

LETTER IV. Its most excellent functions. — And since the good of the entire Church depends on this supreme power and the free exercise thereof, it was of the highest importance that its native independence and freedom be assured, guaranteed, and defended through the centuries, in the person of him who was invested with it, by those means which Divine Providence had recognized as fitting and efficacious for the purpose. And thus, the Church emerged victorious from the long and bitter persecutions of the early centuries, almost as a manifest seal of its divinity; having passed the age which may be called its infancy, and having reached the time when it should show itself in the full development of its life, a special condition of things began for the Pontiffs of Rome, which, little by little, through the concurrence of providential circumstances, ended with the establishment of their civil Principate. Which, with different form and extent, has been preserved even among the infinite vicissitudes of a long course of centuries until our time, bringing to Italy and to all of Europe, even in the political and civil order, the most notable advantages. — The glories of the Popes and their Principate are the barbarians repelled or civilized; the despotism combated and restrained; the letters, the arts, the sciences promoted; the liberties of the communes; the enterprises against the Muslims, when they were the most feared enemies not only of religion, but of Christian civilization and the tranquility of Europe. — An institution that arose through such legitimate and spontaneous means, which possesses peacefully and incontestably for twelve centuries, which contributed powerfully to the propagation of the faith and civilization; which has acquired so many titles to the gratitude of the peoples, has more than any other the right to be respected and maintained: nor can it be said that, because a series of violence and injustices have come to oppress it, the designs of Providence regarding it have been changed. — Indeed, if it is considered that the war waged against the civil Principate of the Popes was always the work of the enemies of the Church, and in this last time, the principal work of the

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sects, which, by overthrowing the temporal dominion, intended to clear the way to attack and combat the very spiritual power of the Popes, this itself clearly confirms that even today, in the designs of Providence, the civil sovereignty of the Popes is ordained, as a means to the regular exercise of their apostolic power, as that which effectively protects their freedom and independence. What is said in general of the civil Principate of the Popes, applies with even greater force and in a special way to Rome. Its destiny is clearly read throughout its history; for, as in the counsels of Providence all human events were or-

[*Latin ed. p. 15*]

Letters bear witness to the earliest times; it happened that, in the ages of infancy of the Pontiffs, events of a wholly new and special kind occurred, and their condition, having begun, showed that the Romans, little by little, ceased to maintain the firm foundation of their civil constitution. These, under various forms and extensions, have continued until the most wondrous times, bringing countless benefits to Italy and all of Europe in political and civil matters, and the insignia and decorations of the Pontiffs are a reproach to barbarous customs. Everywhere, but especially where these institutions are most strongly called to fulfill their duties, they are supported; and these, possessing every right to be called divine, confirm and strengthen the divine will, and are a defense against the enemies of the divine, and, in general, we affirm that Rome is strong and flourishing. Its history, hidden in divine secrets, reveals its authority and the steps by which it has opened the way; just as, through this means, it has acquired the power to maintain its principate, and, above all, to foster peace in the dominion. It is clearly read: just as all human events have been guided by the counsel of the divine Providence, so too the Pontiffs have been appointed as perpetual pastors of the world, and therefore, towards them, Christians are bound to be obedient; they have acted, and what is ordered for Rome is to be sustained by the Providence of God: the spiritual path of the Pontiffs, indeed, requires greater effort, exercise, and freedom; these are the counsels of Providence. The Roman Pontiffs, always guided by the Apostolic councils, have been called to combat the sects of the people, to promote civil worship, and to attack the perfidy of civil enemies, so that tranquility may be restored to all, and that injuries may be observed and punished. These things have arisen, either by force, by legitimate means, or spontaneously; to which the Pontiffs have lent their power; indeed, they have employed every kind of effort, when, even though civil liberties were restrained and coerced, they were expelled, or were enemies to the Christian civil order in Europe, and were formidable to the Christian peoples. The Roman Pontiffs, having emerged victorious, have continued to promote the Christian faith, even when circumstances were adverse, and when the vicissitudes of events seemed to be guided by the wrath of God. Even when Peter fled, and when

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he was being persecuted, he transmitted the faith. By the special will of God, the supreme Prince of the Apostles.

[*Latin ed. p. 16*]

16. LETTER TO those born of Christ and to the Church: just as ancient Rome and its empire were established for the Christian Rome; and not without a special providence, did the Prince of the Apostles, St. Peter, direct his steps to that metropolis of the pagan world, to become its shepherd and to transmit to it, perpetually, the authority of the supreme apostolate. Thus, the fortunes of Rome were bound, in a sacred and indissoluble manner, to those of the Vicar of Jesus Christ; and when, at the dawn of better times, Constantine the Great resolved to transfer the seat of the Roman Empire to the East, it can be rightly believed that the hand of Providence guided him, so that the new destinies might be better fulfilled in the Rome of the Popes. It is certain that, after that time, with the favor of times and circumstances, the Popes, spontaneously, without offense and without opposition from anyone, through the most legitimate means, became its civil rulers, and as such, they held it until our own days. It is unnecessary here to recall the immense benefits and glories that the Popes have brought to this their beloved city, glories and benefits which, moreover, are written in indelible characters in the monuments and in the history of all ages. And it is superfluous to note that this Rome bears in every part of it the imprint of the Papacy deeply engraved; and that it belongs to the Popes by such and so many titles, as no Prince has ever had over any city of his kingdom. It is, however, greatly important to observe that the reason for the independence and freedom of the Papacy in the exercise of its apostolic ministry gains greater and its own special force when applied to Rome, the natural seat of the Supreme Pontiffs, the center of the life of the Church, the capital of the Catholic world. Here, where the Pontiff ordinarily resides, directs, teaches, and commands, so that the faithful of the whole world may, with full confidence and security, render to him the obedience, faith, and obedience that they owe him in conscience; here, above all, it is necessary that He be placed in such a condition of independence, in which not only is his freedom not in any way hindered by anyone, but it is also evident to all; and this is not for a temporary and changeable condition, but of a nature that is stable and lasting. Here, more than elsewhere, it must be possible, without fear of impediments, the full development of Catholic life, the solemnity of worship, the respect and public observance of the laws of the Church, the tranquil and legal existence of all Catholic institutions. From all this, it is easily understood how it is incumbent upon the Romans.

[*Latin ed. p. 17*]

LITTERAE I 7 Thus, the fortunes of the Roman City, by a certain and indissoluble bond, were seen to be linked to those of the Vicar of Jesus

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Christ: and when, with the arrival of better times, Constantine, known as the Great, turned his mind to transferring the seat of the Roman Empire to the East, it can be believed without any shadow of doubt that he was in some way guided by the hand of divine Providence, so that the divine plans concerning Rome and the Pontiffs might be better fulfilled. It has been demonstrated, after that event, and by the grace of time and circumstances, that the Roman Pontiffs, quite spontaneously, without any injustice, and without anyone opposing, have finally acquired, by legitimate means, dominion over this City, even in a civil sense, and have maintained it as such until these times. It is, however, beyond our purpose to recount the great benefits and the illustrious honors which the Roman Pontiffs have conferred upon this City, which they hold so dear above all others, and which are written in indelible characters in the monuments of all ages. It is also superfluous to point out that this City bears the high imprint of Papal dominion in every part of it, by which it is shown to belong to the Roman Pontiffs, with as many titles and privileges as any royal city ever had. However, it is important to note that the Papacy, in the exercise of its Apostolic ministry, acquires a greater power and, indeed, its own proper authority, when it is referred to the City of Rome, the native seat of the Supreme Pontiffs, the center of ecclesiastical life, the head of the Catholic world. Here, the Roman Pontiff resides most of the time, governs, teaches, and commands, so that those who are everywhere in the nations may, with full confidence and security, offer obedience, faith, and the obedience which they owe to Him by the religion of their office; here, above all, it is necessary that he be placed in that condition in which his freedom is not hindered by anyone, not even the least, but rather it is clearly evident to all that he is completely free; and this must be done not through a condition that is transient and changes in every event, but through a condition that is inherently stable and perpetual. Here, more than elsewhere, the full expression of Catholic life must be possible, without any fear of obstacles that might be raised, including the solemnities of worship, reverence, and the public observance of ecclesiastical laws, and the tranquil and legal existence and life of all pious works that are Catholic in nature. From all of this, it is easily deduced what office is imposed upon the Roman Pontiffs, namely, the royal principate of that City, and that it is sacred to them; an office made more sacred by the religion of oaths. Therefore, it would be foolish to demand that they themselves spontaneously consent to renounce the royal principate, along with the City.

[*Latin ed. p. 18*]

18 LETTER TO THE PONTIFFS, and how sacred to them is the duty of defending and maintaining civil sovereignty and its rights; a duty made even more sacred by the religion of the oath. It would be folly to claim that they themselves would consent to sacrifice, for the sake of civil sovereignty,

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that which they hold most dear and precious; namely, their freedom in the governance of the Church, for which their predecessors have gloriously fought on every occasion. We, with divine help, will certainly not fail in our duty, and outside of a return to a true and effective sovereignty, as required by our independence and the dignity of the Apostolic See, we see no other path open to agreements and peace. The entire Catholic Church, deeply concerned for the freedom of its Head, will never rest until it sees justice done to His rightful claims. We know that political men, compelled by the evidence of things, to recognize that the present condition is not what is fitting for the Roman Pontificate, are devising other plans and expedients to improve it. But these are vain and useless attempts; and all those of a similar nature will be so, which, under specious appearances, in fact leave the Pope in a state of true and real dependence. The defect lies in the very nature of things, as they are now constituted, and no external tempering or consideration can avail to remove it.

It is, however, obvious to foresee cases in which the condition of the Pope may become even worse, either through the prevalence of subversive elements and men who do not conceal their intentions against the person and authority of the Vicar of Christ, or through warlike events and the many complications that may arise from them to his detriment.

Until now, the only means by which Providence has used to protect, as is fitting, the freedom of the Popes has been their temporal sovereignty; and when this means failed, the Popes were always either persecuted, imprisoned, or exiled, or certainly in a state of dependence and in constant danger of being subjected to one or the other of these fates.

The history of the entire Church testifies to this.

It is hoped and relied upon that time, as it passes, may make the present condition acceptable. But the cause of their freedom is for the Popes and for the entire Catholic Church, a primary and vital interest; and therefore, one can be certain that they will always want it guaranteed, and in the safest way possible. Those who feel differently do not know, or pretend not to know,

[*Latin ed. p. 19*]

LETTERS, most dear and precious in their freedom, for which it was necessary, are truly so, as the Pontiffs, governing the Church, have so diligently and admirably demonstrated, whenever they have resisted. Indeed, they have done so three times; the Romans 19. We, with God's help, will not fail in our duty; and, as Our authority demands, absolute and unyielding, the entrance to that stolical dignity is open to all, without any submission to the conventions of other men, and we see that the restoration of the ancient agreements of the earth and the firm establishment of peace are being undertaken. The entire Catholic world, supremely desiring to be free from their head, will not yield to the just demands and protests of those,

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as we know, who have been recognized by the Romans, and whose efforts to remove them have been useless; for such endeavors, of every kind and in every way, are vain and will be multiplied, as in the present state of affairs, such counsels are devised: all that is constituted will be abandoned, and there is no reason why it should not be possible to foresee the events that will follow; and their multiple conditions will not be suitable; they will render, under a pretense, a worse condition than the present state of affairs. On the contrary, for those men, and for those who are not endowed with civil prudence, the Pontificate is the best, fully and completely, of those who either conceal; or even of those things that involve implications, which are the only ones that can be. Hitherto, this has been the case: when, however, the medium of the Romans, the medium that is lacking, fails, they are always in danger; or, indeed, they are finally in danger of being drawn into the calamities of those. The entire history of the Church testifies to this. Therefore, it is indeed the case that, as far as each one can, they will seek to be firm in this. Those who think otherwise, who know what the nature of the Church is, whether moral or social, or who pretend not to know, will always be ignorant, or will pretend to be ignorant, of the extent and power that men have, or of the condition in which they are. But for the freedom of the Roman Pontiffs, in place of Pontiffs, the Catholic world, in its time, expects that the Pontiffs will break the impotence of their exiles, whether religious or temporal, and will never be able to.

[*Latin ed. p. 20*]

20. LETTER. It is necessary to understand the nature of the Church, and the extent of its religious, moral, and social power, which neither the insults of time nor the tyranny of men will ever diminish. If they were to understand this, and possessed true political wisdom, they would not only consider the present, nor would they rely on deceptive hopes for the future; but by giving to the Roman Pontiff what he rightfully claims, they would remove a state of affairs full of uncertainty and danger, thus securing the great interests and the very destiny of Italy. It is not to be hoped that these words of ours will be understood by those men who have grown up in hatred of the Church and the Papacy; for, truly, as they hate religion, so they do not desire the true good of their native land. But those who, not influenced by forbidden prejudices, nor animated by an ungodly spirit, rightly appreciate the teachings of history and Italian traditions, and who do not separate the love of the Church from the love of their country, must recognize with us that, for Italy, concord with the Papacy is the most fertile principle of its prosperity and greatness.

"This is confirmed by the present state of affairs. — It is now beyond doubt, and even Italian politicians confess it, that discord with the Holy See does not benefit but harms Italy, creating for it not a few, nor minor, internal and external difficulties. — Internally, there is the disgust of Catholics, who

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see the reasons of the Vicar of Jesus Christ disregarded and scorned; disturbance of consciences; an increase of irreligion and immorality, elements greatly harmful to the common good. — Externally, there is the discontent of Catholics, who feel that the vital interests of Christianity are compromised along with the freedom of the Pontiff; difficulties and dangers, which can also arise for Italy in the political order, from which we desire, with all our heart, that our homeland be preserved. — Let those who can and must resolve the conflict, restore to the Pope the place that is his due, and all these difficulties will cease at once. Moreover, Italy would greatly benefit in everything that constitutes the true glory and happiness of a people, or that deserves the name of civilization, because, having been granted by Divine Providence to be the nation closest to the Papacy, it is destined to receive more abundantly, if it does not fight against it or oppose it, the beneficial influences.

It is often objected that, in order to restore the pontifical sovereignty, one would have to renounce great advantages already obtained, and...

[*Latin ed. p. 21*]

LETTERS. If the circumstances of this matter were to be considered, and if the reasons for it were to be examined, it is clear that there is no false hope in the Pontiff, nor are there dangers arising from the course of events; and thus, just as the prosperity and glory of the Papacy are accustomed to be, so too are those who are thus affected, with great concern, hindering Italy, who are not at all imbued with hatred, nor are they devoid of love for the Italian traditions of the Church, from its prosperity and from the amplitude of its influence over all things. Indeed, the present condition of Italy leaves no room for doubt to any expert, nor does it allow for any such doubts – namely, the disturbance caused by the Jews; the offense to the elements of Christ, the confessions, and the customs, which, with the wickedness of the Pontiff, most greatly contribute to its ruin and constitute a danger; they add to it, so that it may be more abundantly destroyed.

Externally, the advantages and rights of the Catholic faith are seen, and all those difficulties which, by this fact, greatly hinder Italy, which is, by its own merit, destined to a true and happy civil and human flourishing, are opposed by Rome, a nation neighboring the Papacy, which contradicts it. Indeed, if the benefits and advantages of the Pontificate were to be restored, and if the recent events were to be considered, it would be possible to return to the true good, which is always to be accepted: but may God avert from our hearts this conflict, which, in all things, can only bring harm, and which, in the order of things, both politically and internally, can bring discord, sorrow, and great detriment to Italy itself.

The difficulties and inconveniences which the Holy See causes to itself by comparing them with the Catholic faith, the rights which are disregarded and scorned, and the dangers which are to the Pontiff, are many and light,

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but they are internal: namely, the princes of Italy, who, although they reject religion, ought to recognize, with all their hearts, the true good, and ought to hope for it, and ought to listen to the voice of reason, so that, without uncertainty, they may be led to the best of outcomes; but instead, they join with those who, with their birth and upbringing, have removed all fertility from themselves; they join with those men who, with true history, join opinions, and who, in this very time, demand the best for the public good, and who, with our voice, will bring about the present condition, so that it may be as they say, and not as it is; but they, with themselves, will seek out the condition of the time, and they will not make the advantages already achieved of any account; they will not make the Principate legitimate, nor will they renounce it; but they will leave things in the middle, so that they may be as they wish.

[*Latin ed. p. 22*]

22. SOME individuals, disregarding the advancements of the modern age, revert to the Middle Ages. But these arguments are not valid. What true and real good could possibly be opposed by the pontifical sovereignty? It is undeniable that the cities and regions already subject to the civil authority of the Popes were, precisely because of this, preserved on numerous occasions from falling under foreign domination, and always maintained a genuinely Italian character and customs. Nor could it be otherwise today; for the Papacy, by reason of its high, universal, and perpetual mission, belongs to all peoples, and by reason of the See, assigned to it by Divine Providence here in Italia, it is especially a source of Italian glory. — If, therefore, the unity of the State were to be lost, We, without entering into considerations that touch upon the intrinsic merit of the matter, and merely placing ourselves for a moment on the very ground of the opponents, ask whether that condition of unity constitutes for nations such a supreme good that without it there is neither prosperity nor greatness for them; or whether it is so paramount that it must prevail over all other considerations. The fact that there have been, and are, flourishing, powerful, and glorious nations that have not had, nor have, that kind of unity that is desired here, answers for us. Furthermore, natural reason dictates that in conflict, the good of justice must prevail, which is the primary foundation of the happiness and stability of states; and this especially when it is connected, as it is here, with the highest interests of religion and of the entire Church. In the face of this, there is no room for hesitation; if it is by the special favor of Divine Providence that Italia has been granted the great institution of the Papacy, of which any nation would feel highly honored, it is right and proper that the Italians should not consider difficulties as reasons to prevent it from remaining in the condition that befits it. Especially since, without excluding in practice other useful and appropriate adjustments, without mentioning other precious benefits, Italia, by living in peace with

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the Papacy, would see its religious unity powerfully strengthened, which is the foundation of all others, and a source of immense social advantages as well. The enemies of the pontifical sovereignty also appeal to civilization and progress. — But to understand properly from the outset, only that which leads to intellectual and moral perfection, or at least does not oppose it, can constitute true progress for man: and of this kind of civilization, there is no more fertile source than the Church, which has the mission of always promoting man to truth and righteous living. Any other kind of progress, once...

[*Latin ed. p. 23*]

Do letters from the royal principality or the cities of *tium* oppose themselves to civil society? It is certain that the pontifical principality, having explored its dominion, has always maintained, and continues to maintain, the pure and Italian customs. It could happen that the pontificate, having received the 23rd mission, would maintain a special reason, but would lack the universal character of the Holy See, which must present itself as a bulwark against the adversities of the world, and without this excellence, it would be nothing more than a mere state; however, the good that it has done is great, and the nations civil and natural, which today are completely devoid of happiness, and which do not see that intimate connection which is so clearly visible here, are in conflict with it, and this is not love. For it has happened that an institution, in order to appear worthy of the difficulties it faces, must conform to what is convenient for it, and thus, Italy, seeking another source of life, has powerfully promoted the progress of the pontificate, truly advancing the cause of man; or, to put it another way, it has shown that a nation, even if it is different from others, can nevertheless be united with the pontificate in a religious bond, in the pursuit of the common good, and in the cultivation of human and civil virtues, and that it can thus contribute to the progress of civilization. But the civil power, which opposes itself to this, can only lead to regression, or, at best, to a different kind of progress, which, at the very beginning, is less fruitful than that of the Church. For there is nothing more fertile than the Church in the pursuit of truth, of the right way of life, and of the dignity and usefulness that are essential for the perfection of Christ, and this is the foundation upon which all the greatest and most valuable things are built. Whether it is called a principality (a province given to a prince) or by some other name, it is in this condition that it is understood, and we must understand that its enemies are those who are excluded from this concord, to which no human being can be indifferent; it is a concord that is based on justice, and that preserves the foundations that have been laid down. And so, if the pontificate, with its temperaments, feels honored by this, it is because it sees that it is consistent with the will of God, and that it is for the good of all. And this is what is sought, and what must prevail, for the good of the

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pontificate and of the entire Church. Therefore, Italy must be preferred to any other nation, because it is the most excellent, the most powerful, and the most glorious; it is the most united, and it is the one that has been most favored by divine Providence. And if we ask what is the nature of religion, we will find that it is the foundation of all things, and that it is the source of all prosperity. And so, the civil state, which is founded on religion, is the one that will endure, and that will bring about the greatest good. And so, although Italy is different from other nations, it is nevertheless the one that is most pleasing to God, and it is the one that is most likely to succeed. And so, let us pray to God that He may continue to bless Italy, and that He may grant us the grace to live in accordance with His will.

[*Latin ed. p. 24*]

24. LETTER TO those outside this sphere, it is truly a regression, and can only degrade man, driving him back towards barbarity: and neither the Church, nor the Popes, whether as Popes or as civil rulers, could, for the good of humanity, ever be the promoters of such a thing.

However, all that the arts and human industry have discovered or can discover for the utility and convenience of life, all that favors honest commerce and the prosperity of public and private fortunes; all that is, not license, but true freedom worthy of man, is blessed by the Church and can have a very large part in the civil principate of the Popes. And the Popes, when again in possession of it, would not fail to enrich it with all the improvements of which it is capable, adapting themselves to the needs of the times and the new needs of society. The same paternal solicitude, which has always animated them towards their subjects, would also advise them at present to mitigate public burdens; to favor charitable works and institutions with the greatest generosity; to take special care of the needy and working classes, improving their condition; to make, in a word, of their civil principate, even now, one of the institutions best suited to promote the prosperity of their subjects. Against which it would be vain to raise the accusation of being a product of the Middle Ages.

For, as has been said, it would have the healthy and useful improvements desired by the new times; and, if in its essence, it would be what it was in the Middle Ages, namely, a sovereignty ordered to protect the freedom and independence of the Roman Pontiffs in the exercise of their supreme authority, then the very important purpose to which it serves, the numerous advantages that flow from it for the tranquility of the Catholic world and the peace of the states, the gentle manner in which it is exercised, and the powerful impetus it has always given to all kinds of knowledge and civil culture, are elements that are wonderfully suited to all times, whether they are gentle and peaceful, or barbaric and tumultuous. It would be foolish to seek to suppress it simply because it flourished in the Middle Ages.

Moreover, if, as all epochs had vices and reprehensible customs, they

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also had merits so singular that it would be a true injustice to deny them. And Italy, above all, should know how to appreciate them, for it was precisely during those centuries that it reached such heights and fame in the sciences, in literature, in the arts, in military and naval enterprises, in commerce, and in civic institutions, that it can never be destroyed or obscured.

[*Latin ed. p. 25*]

Letters slow down, because those who are truly new, or who possess great knowledge, discover the convenience and benefit of letters, or they seek to increase the dignity of human liberty in civil society. Even the Pontiffs, in order to restore what has been lost, and to ensure that what is human may be used for the good of life, have always striven to explain, with gratitude, how the possession and increase of principalities and temporal power require, by reason of their condition and the exigencies of the times, the solicitude and generosity of the Roman Pontiffs, so that they may undertake the works of charity and the welfare of souls. It is therefore rightly said that it would be futile to seek to prevent these things from happening, since they are essential to the common good. The most excellent life, which the Catholics seek to confirm, is that which is most conducive to the preservation of the faith, and therefore it is not surprising that the Middle Ages were accused of domination, although that domination was, in fact, ordered and aimed at the tranquility, strength, and progress of the sciences, whether they were civil or barbarous. This is because the principalities and institutions, which were always established by the Roman Pontiffs, were intended to provide suitable and useful means for the preservation of the faith, and to promote the prosperity and tranquility of the people, as is customary. However, it is also true that the changes imposed by the civil order of the present age require that the Pontiffs adapt their institutions to the needs of the times, so that they may better serve the people and promote their welfare. The Roman Pontiffs, therefore, have always sought to improve the condition of the people, and to promote the common good, and they have always done so with the best of intentions. It is not surprising, therefore, that the Pontiffs have always been accused of domination, although their intentions were always good. The same can be said of the other religious orders, who have always sought to serve the people and to promote the common good. It is not surprising, therefore, that the Middle Ages were accused of domination, although that domination was, in fact, ordered and aimed at the tranquility, strength, and progress of the sciences, whether they were civil or barbarous. This is because the principalities and institutions, which were always established by the Roman Pontiffs, were intended to provide suitable and useful means for the preservation of the faith, and to promote the prosperity and tranquility of the people, as is customary. However, it is also true that the changes imposed by the civil order of the present age require that the Pontiffs adapt their institutions to the needs

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of the times, so that they may better serve the people and promote their welfare. The Roman Pontiffs, therefore, have always sought to improve the condition of the people, and to promote the common good, and they have always done so with the best of intentions. It is not surprising, therefore, that the Pontiffs have always been accused of domination, although their intentions were always good. The same can be said of the other religious orders, who have always sought to serve the people and to promote the common good.

[*Latin ed. p. 26*]

26 LETTER. We desire, Most Eminent Cardinal, that these ideas, derived from considerations so elevated and which take into account all legitimate interests, may penetrate ever more deeply into the minds of all; and that not only those who are true Catholics, but also those who love Italy with true love, may openly embrace these Our views and support them. In any case, by promoting reconciliation with the Holy See and by indicating its fundamental conditions, we feel that we have fulfilled a duty before God and men, whatever events may follow. As for you, we are certain that you will always employ all your intelligent activity in the execution of the plans that We have manifested to you in this letter. And that your work may be of great benefit to the Church and an honor to the Holy See, we implore abundantly from Heaven its light and its help upon you. As a pledge of this, and as a testament of our special affection, We impart to you from the heart the Apostolic Blessing. From the Vatican, 15th of June, 1887. LEO XIII.

[*Latin ed. p. 27*]

Italy, that land of literature and the sea, ought to be made illustrious, or at least not obscured, by the very commerce and civil affairs of His Eminence the Cardinal, for all matters pertaining to it are of such grave importance, and concern all those who dwell within its borders. Furthermore, all minds are directed towards promoting the interests of this land, before God and men, and we feel that we have fulfilled our duty in this regard. We, indeed, have offered our counsel, to which we have devoted our wisdom, and we offer to Italy and to you, Most Reverend Cardinal, a heavenly pledge, in the city of Rome, with a sincere heart, that we will strive with all our might to bring about whatever is beneficial to you. And may the Apostolic Blessing, which we impart from the Vatican, be with you.

The events of the past, from the time of Pope XIII to the present day, have been opportune for the honor of the Holy See, and we have labored with all our heart to achieve this. We have also demonstrated, in this letter, the certainties that are imposed upon the Church and the Papacy, and we have shown that all those things which are essential to you are within our grasp. And as your work and labor proceed, and as all things are brought to fruition according to our counsel, you will be able to see that our intentions

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are in accord with your own.

Furthermore, that which is true, just, and beneficial to the Catholic Church and to human society, having been established by institutions, will endure and flourish, and will finally achieve its purpose, provided that it is pursued with diligence and piety. We pray to God that you may never cease to strive for the glory of His name. We have been mindful of you for twenty-seven years since the birth of Christ.

[*Latin ed. p. 28*]

28 FROM THE SACRED CONGREGATION OF THE COUNCIL OF CALARITANA, OR UXELLEN. OF CARDINAL APPOINTMENT, DAY 29 OF JANUARY AND NOMINATION, 1887. SESSION 21, CHAPTER 2, ON REFORM. Concerning the vacant canonical penitentiary position in the metropolitan Church of Calaritana, for which a legitimate assembly was convened for the 11th of October, 1886, Raymond Ibba, a canon and theologian of the cathedral of Uxellen, and the priest Daniel Vidili, who, although an outsider, is said to have been legitimately incorporated into the diocese of Calaritana, were present. However, Canon Ibba had come there without consulting his Bishop. SUMMARY OF THE FACTS. By the bull *Nuper* issued by Pope Clement XIV, the election of theological canons in Sardinia pertains to the Bishop together with the chapter. Therefore, after the examination of the candidates was completed, the chapter convened for the vote; and in that vote, Canon Ibba received ten votes, or the unanimous support of the votes, while the priest Vidili received only two favorable votes, and the rest were against him. Upon learning of this, the Archbishop abstained from the vote; and, informing the Bishop of Uxellen about the matter, he urged him not to oppose the election of Canon Ibba, citing several reasons for this. But this Prelate rejected the reasons given, and informed the Archbishop that, due to the needs of his church, he could not allow this priest to leave. For, as is the consensus of all, he is a man of integrity and learning, and for many years he has taught dogmatic and sacred scripture lectures in the seminary of Uxellen. Indeed, when the scholastic year was about to begin, after having previously sent friendly letters, and then threatening suspension, Canon Ibba was recalled to his residence and to his customary teaching duties.

[*Latin ed. p. 29*]

CALGARI OR UXELLEN. § 9. Indeed, Ibba had served; but he did not send a notification of his election to the penitentiary of Cagliari, which he most earnestly desires to obtain, according to the statutes, and even according to the Archbishop's wish. Therefore, the Archbishop sent a letter to the Sacred Congregation of the Council, requesting the approval of Ibba's canonical appointment. Synopsis of Arguments. ARGUMENTS FAVORING CANONICAL APPOINTMENT OF IBBA. It has been noted

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in favor of his canonical appointment that he is already advanced in age, and that "he has been seriously ill at least twice, most recently in the years 1880-81, during which time he almost despaired of recovering his health, suffering greatly from a severe cough." Nevertheless, he is still required to fulfill his duties as a canon theologian, serving the choir and giving lectures on dogma and Scripture in the seminary, to which he still devotes himself. Therefore, although weakened by age and illness, and retaining the theological position at Uxellen, he should nevertheless be entrusted with the heavy burden. Furthermore, the air of Uxellen is considered harmful by all; but in the specific case of Canon Ibba, it is quite the opposite, as written by the Archbishop of Cagliari. Conversely, the air of Cagliari is healthier; and the duties of the penitentiary are less burdensome than those at Minori. And so, by sending a notification to the theological position at Uxellen, and by desiring to obtain the position at the penitentiary of Cagliari, Canon Ibba would both escape the inclement climate and free himself from the heavy labors that are detrimental to his age and health; and, conversely, he would undertake a more convenient and honorable office in the principal city. These advantages are such for Canon Ibba that there is a danger that, if this favor is denied to him, he will quickly fall into despair. Sacred Congregation of the Council in Milan, or Vigliano. (1) There is a question as to whether the grace of excardination can be granted, even against the will of the Bishop, when it concerns health or a considerable and true private good. (1) See Volume XVI, 534, and Volume XIX, page 118.

[*Latin ed. p. 30*]

30. CALGARI (CALARITANA) OR ALES (UXELLEN). It should not be said that a canonical prebendal benefice can be held in another diocese. For it is certain in law and among learned men that anyone can resign a benefice for a just cause: for "everyone can renounce his right" (c. Si diligenti* De foro compet.). And specifically, as Saint Pius V declared in the constitution *Quanta ecclesia*, in volume I, Bull. Rom., § 3j, those who, either through old age, or infirmity, or bodily impediment, are unable or ought not to serve the Church or the benefice, can relinquish their benefices, and their resignations are to be accepted. Likewise, those who are promoted to another benefice. However, a canonical prebendal holder can invoke both reasons, namely, infirmity and promotion to another benefice. Therefore, it would seem that he can certainly relinquish the theological lectureship, and his resignation should be accepted. It should not be assumed that the canonical prebendal holder is not yet fully promoted, but only elected; moreover, his election is invalid, since it was made in the person of another diocese and he is obligated to another residential benefice. To this, it could be replied, firstly, that notwithstanding this, the reason of infirmity always favors the canonical prebendal holder, since it is stated above that it is permissible

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to send a messenger regarding benefices, and to depart from a place. But furthermore, although election does not confer a right to the benefice, it is nevertheless significant, and grants a right to the thing, so that after it, the granting of the benefice appears to be an act of justice (De Luca, *De paroch.*, disc. 4, n. 8). Moreover, the concurrence and election of an extra-diocesan, even if obligated to another benefice, is not invalid, but rather is clearly valid and licit, as is evident from the Council of Trent, Session 24, chapters 16 and 17, *De reform.*, chapter 28, *De praeb.*, and the Extravagant *Execrabilis*, ibid., title, *Inter com.*, with Rebuffo, *Prax. benef.*, title *De tacit. renunt.*, and Reiffenstuel, *ad tit.* *De renunt.*, n. 9 seqq., and cited Constitution of Saint Pius V. Indeed, there is no law that prohibits an extra-diocesan from concurring for and being admitted to a benefice, nor any prescription that forbids a holder of another benefice from obtaining a new one for himself.

[*Latin ed. p. 31*]

CALARITANA. SIX UXELLEN. 31 tius quaerere, priori adhuc non dimisso. Quod ita verum est ut Reiffenstuel, loc. cit., iuris ac Doctorum praescripta reassumens, notet: « Tacite renuntiat beneficium, qui aliud recipit cum illo incompatibile. » Neque excipias, theologalem praebendam eiusmodi esse, cui renuntiari non valeat. Siquidem nullum est beneficium quod adeo personae inhaereat, ut eo ex iusta causa et legitimo modo clericus se exuere non valeat. Et quamvis pro theologo cautum sit, quod in capitulis, ubi est optio, ipse ab una ad aliam praebendam optare non valeat, sed suam semper retineat, hoc tamen ei intercipit optionem, et facultatem variandi ab una ad aliam praebendam in suo capitulo, non vero simplicis renunciationis arbitrium ei aufert. Maius obstaculum quod in re est, id unum videtur quod episcopus UXELLEN maxime urget, damnum scilicet ex canonici Ibba discessu Dioecesi suae promanans. Attamen si consideretur ex aetate et infirmitatibus et amentiae periculo, quibus idem canonicus affligitur, posse facile contingere eumdem canonicum aut vitam fungi, aut penitus a quolibet opere impediri; quod quidem periculum maius et proximum foret, si canonicus Ibba Alesii residere adigeretur; - si ulterius consideretur, quod alterutra ex hisce contingentibus eveniente, pro utraque Dioecesi deperitus ille foret nullumque amplius afferret bonum; dum vicissim, cum et doctus et probus sit, in salubriori loco et minus oneroso officio diutius vivens, diutius ecclesiam iuvaret; - si demum consideretur Calaritanum Praesulem ad hunc sacerdotem habendum et ne UXELLEN Ecclesia damnum patiatur, huius Ordinario usque ab initio proposuisse se daturum alterum sacerdotem eidem benevisum, loco canonici Ibba; ex quo non modo quodcumque damnum tolli, sed imo sub aliquo respectu emolumentum Ecclesiae UXELLEN afferri videretur; his omnibus inquam consideratis, etiam haec difficultas cadere forsan potest. Altera vero parte, omissis, quae sunt minoris momenti, defensio ad duo

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quae adversantur canonico IBBA. E X.

[*Latin ed. p. 32*]

32 CALGARI OR UXELLEN. The matter was brought to a conclusion; indeed, the diocese of Uxellen requires the services of Canon Ibba and his presence, but he is not urgently needed to leave for the purpose of attending to the salvation of souls. And in truth, this diocese, the Bishop stated, suffers from such a scarcity of priests that many parishes are left without a pastor. Furthermore, the number of students is not abundant in the seminary; and they cannot receive the necessary instruction in dogmatic theology and Holy Scripture, which Canon Ibba provides. Regarding this matter, the Bishop said, if this master should leave the diocese, I would be forced to promote young men to the sacred orders, who are lacking in this knowledge, because it would be almost impossible for another master to suffice for them, since none is available. It is not to be said that the Prelate of Cagliari has proposed another priest to the Bishop of Uxellen in place of Canon Ibba. For this exchange of subjects, if all those concerned consent willingly, presents no real difficulty; but in this case, the matter does not please the Bishop of Uxellen, nor has it been accepted by any priest of Cagliari, and therefore it is easily conceivable that no priest from Ales would agree to leave, and that all, at least those who are selected for this purpose, would insist on their right to remain in the diocese. Therefore, the Bishop of Uxellen wrote to the Prelate of Cagliari: it would seem best, in the present circumstances, that he himself, who should be providing the services of Canon Ibba, should be immediately presented to the Apostolic See as a penitentiary. With regard to the health of Canon Ibba, the Bishop of Uxellen noted in letters addressed to the Prelate of Cagliari: I believe it is necessary to point out that many reports concerning the health of Canon Ibba are entirely untrue. Thus, it is not true that he ever suffered from dementia; unless one wishes to call that lowering of his spirits, by which, in the years 1880-81, afflicted by illness, he hesitated for a time whether he would regain his former health. Also untrue are other things that have been reported; namely, that Canon Ibba's health...

[*Latin ed. p. 33*]

CALARITANA OR UXELLEN. He lost thirty-three years through suffering. For he never suffered a greater contradiction than when my predecessor did not choose him for the Penitentiary, for which he had competed with others. And although he burned with such a desire to obtain it, and resorted to secular power to obstruct the course of papal Bulls, he suffered no detriment to his health. On the contrary, he enjoyed his former health, and accompanied the Bishop on his Visitation, preaching and performing sacred missions, not without my special approval and favor. Regarding the climate, the Bishop says: Canon Ibba was born in a place where the air is

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not purer than that in which he now holds his benefice, and in which he has lived for thirty years with perfect health, except for two years, 1870, and 1880-81. After these things, the same Prelate proceeds to recount quite singular and unhealthy reasons by which Canon Ibba is accustomed, both in eating and drinking, as well as in dressing and traveling or walking; and he adds that, for these reasons, and not for others, whatever the doctors may say, the infirmities of Canon Ibba should be attributed. Given these circumstances, if, indeed, the reason for his health should cease, and the Diocese of Uxellen should need the services of Canon Ibba, then it would already be necessary to deny him the grace of excardination. For no one, without the consent of the Ordinary, can leave his place; and if he should nevertheless leave, he can even be compelled to return by censures: Tridentinum, Session 23, chapter 16; *Bene Reformatum Concilium Romanum*, title 6, chapter 6; and *Sacra Congregatio Consilii*, in Senogallien, 1592; Nucerina, 5 September 1818; Reatina, Residence, 26 January 1833; and in Nucerina, Residence and Suspension, 15 March 1828. These things are especially true regarding clerics who hold a benefice in their Diocese, as is clear from Ariminen, 5 December 1574, and as De Angelis clearly teaches in title *De clericis*, paragraph 4. For a cleric, after accepting the benefice and possessing it, remains attached to the Church; and the Church would suffer great detriment if anyone could freely renounce it. Therefore, it is also generally established, in the *Acta*, Volume XX, page 229.

[*Latin ed. p. 34*]

3. CONCERNING GALARITAINA, OR UXELLEN. It is not possible to issue a resignation from a benefice, unless it is done in the hands of the superior who receives it. And although it is said that anyone can send a notification to another of their right, it must be understood that this is done without prejudice to the other, and for a just cause; Reiffenstuel, *De renuntiationibus*, no. 15. With these premises, the following question was posed: Whether the excardination and election of the priest Ibba to the penitentiary of Galaritaina is permissible in this case.

RESOLUTION. The Sacred Congregation of the Council, after discussion on January 29, 1887, decided to respond: Negatively, and a new application should be made.

FROM WHICH THESE POINTS ARE DERIVED.

I. It is clear that Bishops can prevent clerics who have been granted a benefice, and others who are assigned to a certain place, from leaving, and from abandoning their Church, and from dedicating themselves to the service of another Church, without the permission of the Ordinary.

II. Since a cleric, by accepting a benefice and by possessing it, remains bound to the Church, it is generally accepted that no one can resign their

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own benefice, unless it is in the hands of the superior who receives it, especially if the Church would suffer damage.

III. Obstacles to the resignation were presented by the Bishop's opposition, by the damage that was feared would befall the Seminary, and by the lack of legitimate reasons.

[*Latin ed. p. 35*]

35. VIVIERS. Concerning the application of the Second Mass. March 21, 1887. Session 22, chapter 1, concerning oils, vestments, etc. The Bishop of Viviers presented the following to the Sacred Congregation of Rites:

1. "There exists in the Diocese of Viviers a pious association of three hundred priests, approved by the Holy See and enriched with spiritual benefits. According to its statutes, all who have joined it are obligated to celebrate one Mass for each deceased member of the association; this obligation is considered to arise from justice. Furthermore, some members free themselves from this obligation by celebrating another Mass, a Mass of obligation celebrated on Sunday; this appears contrary to certain decisions of the Sacred Congregation, by which it is forbidden to receive payment for a second Mass, because to free oneself from the Mass owed by justice through a Mass of obligation is as if one were receiving payment for the Mass of obligation."

2. "There are also some parish priests who, if, due to a legitimate impediment, they are unable to celebrate Mass on the day it is to be offered for the people, free themselves from this obligation by celebrating another Mass on the following Sunday; this results in them celebrating twice for the people on that Sunday, which also appears contrary to the aforementioned definitions of the Sacred Congregation."

SUMMARY OF THE MATTER. SYNOPTIC DISCUSSION OF TWO CUSTOMS OPPOSED.

It was observed, from official sources, that two doubts were presented by the Bishop, which require clarification:

I. Whether members of the association of three hundred priests can apply a second Mass in satisfaction of the obligations incumbent upon them by their membership.

II. Whether parish priests who were unable to celebrate Mass for the people on a certain feast day can fulfill this obligation by offering another Mass on the following Sunday.

[*Latin ed. p. 36*]

36 JANUARY. This practice should be observed on the second Mass, and on the following feast day. According to the Constitution *Cum Semper Oblatas* of Pope Benedict XIV, it is clearly established by the constant dis-

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cipline of the Sacred Congregation of Rites that neither parish priests nor clerics can receive alms for the second Mass, either directly or indirectly, as can be seen in numerous cases recorded in the acts of the summary proceedings, for example, in Ventimiglia, December 19, 1835; in Camerano, September 25, 1858; in Trier, March 23, 1861; (1) in another case in Trier, April 29, 1871; in Nancy, Toul, and Nimes, September 14, 1878; in all of which cases the clause was added: "always maintaining the prohibition of receiving stipends for the second Mass." The reason for this constant decision is that any form of commerce or avarice should be removed from sacred things; and therefore, obligations that arise from justice cannot be fulfilled in the second Mass, such as Masses offered to fulfill obligations arising from stipends, benefices, or chaplaincies, as stated by Lehmkuhl in *Theologia Moralis*, p. 111, vol. IV, part 2, no. 216. However, the priests in question appear to be bound by justice to perform these duties. For those assigned to a congregation of three hundred priests, there is an obligation to celebrate Mass, at least by an implied agreement: "do what you are obligated to do." Thus, a true exchange of services takes place among them, as the Bishop notes, so that in the event of death, each may be relieved, at least in part, from the duties of administering the sacraments. Therefore, the celebration of Masses for the deceased of their congregation cannot, in any way, be considered a free service. The same must be said, indeed, even more so, of the parish priests: for, by reason of their benefice, they are bound to pray and offer the most excellent of supplications to God for the people entrusted to them, as stated in the Council of Trent, Session 23, chapter 1, on reform. In the Constitution *Cum Semper Oblatas*, it is also stipulated, among other things, that (1) *Belata fuit Vol. I, 13*.

[*Latin ed. p. 37*]

VIVARIEN. In 37 casos de almas, al párroco "al que se le asigna una pequeña cantidad de estos frutos ciertos y pocos ingresos inciertos, se le debe dar un aumento adecuado por la carga de celebrar y aplicar la Misa por el pueblo en los días festivos." Estas palabras indican claramente, al menos por una razón, que los párrocos están obligados a celebrar la Misa por el pueblo debido a que reciben beneficios temporales, es decir, ingresos de su beneficio: lo cual se manifiesta una vez más, y más claramente, en el § 6 de la misma Constitución, donde se cita el antiguo decreto de la S. C. C., que fue abolido por el Sumo Pontífice, a saber: "el párroco debe celebrar y aplicar diariamente la Misa por el pueblo, estando dotado de generosos ingresos"; mientras que aquel que no disfruta de tales ingresos más abundantes, solo debe celebrarla los días festivos." Por lo tanto, la Misa parroquial no es de ninguna manera gratuita, sino que es, por el contrario, totalmente una remuneración. Por lo tanto, transferirla al día de la semana, y aplicarla en ese día, parecería prohibido por los derechos alegados. Además, hay otra razón especial que se opone a las solicitudes

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de los párrocos. Porque el párroco, legítimamente impedido de celebrar la Misa en un día festivo, no puede transferir la celebración de la Misa a otro día, especialmente uno un poco más lejano, como se desprende de la respuesta dada por la S. C. C. en un caso similar, dada el 14 de diciembre de 1872, con el siguiente texto: "El párroco, legítimamente ausente de su parroquia en un día festivo, puede cumplir su obligación aplicando la Misa por su pueblo en el lugar donde reside, siempre y cuando, para la necesaria comodidad del pueblo, otro sacerdote celebre en la iglesia parroquial y explique la Palabra de Dios. El párroco, sin embargo, debe asegurarse de que, independientemente de que esté legítimamente impedido de celebrar la Misa, se haga que otra persona celebre y aplique la Misa en la iglesia parroquial en un día festivo: y si esto no se ha hecho, primero podrá ser obligado a aplicar la Misa por el pueblo." Por otro lado, con respecto a la aplicación de la segunda Misa por el hermano fallecido, parece favorecer la práctica de la S. C. C. en varias decisiones, y especialmente en Nanceynen. - Tullien. y Nemausien. 14 QUE FAVORECE ESTA DOBLE COSTUMBRE.

[*Latin ed. p. 38*]

38. ARBITRARY DECISION. September 1878, through summary proceedings, a matter of this kind is briefly reported. From the year 1842, a congregation of priests of Saint Joseph had been established in that diocese, endowed with indulgences by the Holy See, whose members were obliged to celebrate one Mass for each deceased brother priest. The priests, to whom it was permitted to say two Masses on Sundays and feast days, offered the second Mass for the deceased brother priests, believing that they could do so with a safe conscience. However, a doubt arose; the Ordinary inquired whether a Mass of obligation could be offered, as in this case, for deceased brother priests. And the Sacred Congregation responded: it is permissible. (1) Indeed, the reason why it was forbidden to receive stipends, either directly or indirectly, in the offering of the second Mass, was to remove any danger of greed or avarice, and so that the people would not be scandalized in any way. But, in the aforementioned congregation, where mutual services are exchanged, these inconveniences do not appear in any way, on the contrary. For the work of charity towards brother priests is exercised, and therefore it is pious and holy, and also for the edification of the people, so that it may be known. Furthermore, the brother priests do not appear to receive any material benefit or temporal gain, either directly or indirectly, from their work, but solely to strive for spiritual benefits, both in life and after death. Regarding the parish priests, it does not seem that avarice or a deplorable desire for gain can be attributed to those who, when they are unable to celebrate Mass for the people on a certain feast day, postpone it to the following feast day. For the opinion of theologians and canonists is that parish priests must, by themselves, perform the sacrifice of the Mass for the people entrusted to them, as the Sacred Congregation resolved in

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Tivoli, Applic. miss., November 21, 1801. This applies especially to the case of parish priests who have the faculty of saying two Masses, and who are, of course, located in certain places. (1) Compare Volume X, page 283; in that place, the aforementioned question is related.

[*Latin ed. p. 39*]

V. IV, question 39: Where there is a scarcity of priests, it seems difficult, nay, impossible, to entrust the celebration of Mass for the people to others. It appears prudent to spare the parishes if they celebrate manual Masses within the week; for this would be both a charitable act towards the faithful who are requesting prayers, or imploring divine mercy, as well as a means of assisting the needs of the pastors in this time of widespread hardship, and would not only be excusable, but perhaps even advisable. And even more so if, due to illness or some other similar cause of impossibility, the pastors are prevented from celebrating Mass. In such a case, if they were to be burdened with celebrating a Mass for the people within the week, it would be a double burden; which would not occur if they were to postpone it to the following feast day, on which they celebrate twice. Furthermore, the resolution of the Sacred Congregation, which has been brought up in opposition, does not absolutely forbid the postponement of Mass for the people to the following feast day, but only advises that the pastor, as far as he is able, either by himself or through another, should celebrate Mass on the feast day. With these things stated, the following questions have been proposed:

I. Can a priest who is bound by the statutes of a sodality, to which he has given his name, to celebrate a Mass for a deceased member, fulfill this obligation by offering a second Mass on a day when two Masses are celebrated?

II. Can a pastor who was unable to celebrate Mass on the day it was to be celebrated for the people, fulfill this obligation by offering a second Mass, to be celebrated on the subsequent feast day when two Masses are celebrated?

RESOLUTION. The Sacred Congregation, having considered the matter, on March 5, 1887, decided to respond as follows:

To I: Affirmative.

To II: Negative; and it is advisable to consult with the Most Holy Father regarding absolution in this matter.

[*Latin ed. p. 40*]

40. VIVARIEN. Let the decisions of this Sacred Congregation, dated December 14, 1872, be communicated to the Bishop (1). From these, the following may be gathered:

I. A priest, who celebrates two Masses, can apply the second Mass for a member of his flock, to whom he is bound by the law of charity, rather than

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by the law of justice; because, from this concession, the integrity of Church discipline remains, which does not permit the acceptance of alms for the second Mass.

II. When pastors receive emoluments from their own parochial benefices, it cannot be said that they freely offer the Mass for the people; therefore, it has been forbidden to accept alms for the second Mass, so that all suspicion of avarice may be removed from sacred things.

III. A pastor is bound, either by himself or by another, to offer the Mass for the people on all feast days; and this obligation must be fulfilled by him as soon as possible, unless some legitimate impediment prevents him from doing so on the feast day itself.

IV. The application of the Mass for the people, made by a pastor legitimately hindered, on another feast day when he celebrates two Masses, seems to be contrary both to the doctrine concerning the non-acceptance of alms for the second Mass, and to the response of the Sacred Congregation, which commands that the Mass be offered as soon as possible.

V. Sometimes, the Apostolic See permits that some remuneration be received for the second Mass; but this is only in the case of a completely extrinsic reason, either on account of the labor and inconvenience of the celebrant, while the prohibition of receiving anything as alms remains firm.

(1) Compare Volume VII, page 191, where you will find the question already mentioned, for which reason the Sacred Congregation issued these decrees. Concerning the Mass for the people, see Volume I, page 389; Volume III, page 98; Volume VI, page 528; Volume VIII, page 33; in the aforementioned place, Bishop Catalaunen proposes two doubts to be clarified concerning the Mass offered to the pious people; see also the aforementioned volume, page 701; Volume X, page 297; Volume XI, page 283; Volume XIV, page 332.

[*Latin ed. p. 41*]

4. LUCANA PAROCHIALIS. Die 2 Aprilis 1887. Sess. 21 cap. 7 De reform.

COMPENDIUM PACTI.

In the Pago of Pontemazzori, where 75 families, approximately 300 faithful, reside, there exist two churches: one of Saint Lawrence, situated on a sunny hill, and the other of Saint Andrew the Apostle, a more humble structure built in the valley.

The Pago established a perpetual curacy, permanently united to the parish of Montismagni: and the rector of Montismagni chooses a perpetual curate, to be approved by the Ordinary, to whom he also pays an annual pension.

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However, there is a dispute regarding the location where the perpetual curacy was originally established, and where it ought now to be located. For a long time, there have been disagreements among the inhabitants regarding this matter. Some wish the perpetual curate to perform the sacred functions and reside near the church of Saint Lawrence, while others, on the contrary, wish him to do so near the church of Saint Andrew.

On July 18, 1833, the general vicar, Dinelli, in order to resolve these long-standing disputes, issued a decree by which he decided that, on certain principal feasts, such as the Nativity of Our Lord Jesus Christ, the Circumcision, the Epiphany, Palm Sunday, Easter, Ascension, etc., the sacred functions should be performed at Saint Andrew's; conversely, the Vigil of the Nativity of Our Lord Jesus Christ, Holy Week, Pentecost, etc., as well as all parish Masses, functions, and blessings with the Most Holy Sacrament, should be celebrated in the church of Saint Lawrence.

After this, peace was restored, which lasted for a long time.

However, at the present time, we find the curate residing at Saint Lawrence's, where the Most Holy Eucharist is reserved, and where many sacraments are administered; marriages, however, are now celebrated now in one church, now in the other, according to the will or devotion of the individuals; but, conversely, funerals are always held at Saint Andrew's, since that temple is located near the cemetery.

The same...

[*Latin ed. p. 42*]

42. Lucensis languished, and completely lacked dwellings or lodgings suitable for the parish priest's residence and comfort. Considering this, a noble family from Trent and other families surrounding the church of St. Andrew, in the year 1860, approached the Ordinary with a plan for restoration, proposing a presumed cost of 13,000 livres, and requesting that it be carried out. The Archbishop, having carefully considered the matter, by decree of September 3, 1860, approved the plan for expertise and construction, and permitted its execution, but with the caution in article 2 that these works should never alter the parish system, nor displace the parish priest's residence. Subsequently, as the church was being restored, and the parish priest feared that a house would also be built near the same church, in which he would be forced to reside, he appealed to the Sacred Congregation of the Council to prevent this; however, the Sacred Congregation responded: "Having considered the letters of the Archbishop, there is no basis for the requested prohibition, saving the right of the parish priest to appeal, as is his due, in the event that the transfer should be carried out." Meanwhile, the historical details are omitted, but it is certain that, in the year 1884, parish residences were built near St. Andrew's. At that time, it was also publicly stated that the intention of the archiepiscopal curia was to transfer the parish priest's residence to the church of St. Andrew. The

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parish priest, however, appealed to the Roman Pontiff, requesting that he forbid the Archbishop to do so; he also decreed that, leaving things in their present state, the decrees of the Ordinary of Lucensis of the years 1833 and 1860 regarding the performance of sacred functions throughout the year should remain in force in both churches of that town. The Archbishop, when questioned about the matter, as well as the rector of Montismagno, who was consulted by the Ordinary as a patron, both favored the transfer and defended it with arguments; the assistant priest, on the other hand, opposed it. A Synopsis of the Arguments. WHAT IS OPPOSED TO THE TRANSFER. It has been pointed out that the assistant priest can, above all, defend his right of possession.

[*Latin ed. p. 43*]

LUCANA 43. Whatever may have been the case from the beginning, for many years now, the parish residence has been located at St. Lawrence's: there, the parish house is found, which until these very recent days, was the only one in the place; there, the ordinary gatherings of the people are held, and the parish priest only descends to St. Andrew's on certain days of solemnity or festivals, according to the order established by the Vicar Dinelli in the year 1883. And if funerals are celebrated at St. Andrew's, the parish priest says, this is because the cemetery adjoins that church. And if marriages are sometimes celebrated in the same St. Andrew's church, this is because more people foster devotion towards the image of the Virgin, which is venerated there. Nevertheless, it is undeniable, and not disputed, that the parish priest's seat and the ordinary exercise of his principal pastoral ministry are located at St. Lawrence's. Therefore, the question of his possible removal is raised today. Furthermore, the present state of the parish is not a recent development, but is rooted in venerable antiquity, or perhaps even reaches back to the very foundation of the vicarage. This can be ascertained from documents of the Vicar General, who, when dealing with the matter of the arrangement of sacred functions, wrote in a decree of the year 1833 to the minister of state, saying: "It appears from the documents that a perpetual vicarage was established in the year 1607 in the Church of St. Lawrence, which has been used as the parish church from that time." To this testimony, the parish priest says, one must give assent. Moreover, qualified and long-standing witnesses attest that the Most Holy Sacrament has always been reserved in the Church of St. Lawrence, and that the parish priest's residence has been located there. These assertions gain weight from the circumstance that cannot be overlooked, namely, the lack of a parish residence at St. Andrew's. For it cannot be supposed that the parish priest had his residence and pastoral duties there, where there

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was no dwelling.

[*Latin ed. p. 44*]

44. In LUGANA, near another church, there is an ancient house which serves as the residence for the vicar. However, the assertions of many people, of old age, who appeal to their ancestors, attest to the antiquity, indeed the immemorial nature, of the church; as is seen in the records of Lucca, De Iudice, fol. 2, no. 59. And therefore, the privilege of the church of St. Lawrence does not originate from the decree of Vicar Dinelli, but either from the very foundation of the vicariate, and this would give it the greatest weight in its rights, or, at the very least, from a time whose beginning is not known, and this would be of no less value. For, "from the most ancient custom, the beginning of whose memory is not known, a better title is presumed in the world." Zamboni, vol. 4, Conc. v. Cons. immemor. However, in a certain jurisdiction of Eugubina, on August 7, 1774, § 4, as found in Zamboni, loc. cit., vol. 1, § 5, concerning parish churches, it is stated: "Although parish churches were once movable, nevertheless, the quality of perpetuity, having been preserved for more than 100 years, has changed their quality and status; while only 40 years are sufficient to change the status of a benefice." Therefore, in this case, since the parish residence has been located at St. Lawrence for not only 40, not only 100 years, but either from its origin, or at least from a time of immemorial antiquity, the privilege of the aforementioned church rightfully belongs to it. Having established this, what follows in law, the Most Reverend Fathers know perfectly well: it is written in the documents of Firmana, concerning Translation and Union, on June 26, 1779, § 7, as found in Zamboni, loc. cit., § 6: "The translation of a parish church and the union of a benefice are forbidden by the Council of Trent, session M, chapter 13; " where, indeed, "the Holy Synod commands the Bishops, for the safer salvation of the souls entrusted to them, to assign to each [person] a permanent and particular parish, distinguishing the people into certain and proper parishes... And also, in those cities and places where there are no parish churches, they should take care to establish them as soon as possible."

[*Latin ed. p. 45*]

In LUCANA 45, a clearer prohibition against translation is found in "from chapter 7, session 21, *Be ref.*," where, although it is permitted in the case where a parish church, either collapsed or crumbling, cannot be restored due to the lack of resources of all those concerned, it is clearly indicated that, outside of this unavoidable necessity, or a similar case, translation is to be prohibited. And rightly so: for, as the same Tridentinum, session 25, chapter 5, *Be reform.*, states, "reason demands that those things which are well established not be subjected to contrary arrangements." Neither is it fitting for the honor of the Church, nor is it

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beneficial for the orderly governance of souls, nor is it just or equitable in itself, to deprive a church of its parochial rights and honors, long possessed, and to transfer it lightly and for a lesser reason to another church, and to transfer the title of the parish. But a translation, which is a violation of acquired rights, and which the wise should always regard with disfavor. Indeed, as is noted in the document from Firmana, dated February 27, 1734, §. 3 and 4, cited by Zamboni, "the power granted to Bishops by the Tridentinum seems to be only in the case where the old parish church, after its ruin, cannot be restored due to the lack of resources of those who would be subject to its separation. Apart from this case, the Bishop cannot, by his own right, transfer a parish; but a power to do so must be requested from the Holy Pontiff." And although it is true, as stated above, that translation is permitted not only in the case of irreparable ruin of the church, but also in a similar case; nevertheless, it is certain that a grave and evident reason of utility or necessity is always required, and that this is most often and especially "if there is a long distance" from the parish church, and "if access to it is difficult and very inconvenient," as is read in the document from Città di Castello, dated January 13, 1760, and repeated in two documents from Firmana cited above, and in the document from Fulginata, dated March 16, 1782, in the commentary on the document dated July 19, 1766, and in other places often. Indeed, in the present case, a grave reason of utility or necessity for the translation of the parish does not appear: 1. because...

[*Latin ed. p. 46*]

46. In Lugana, the situation is as follows: because the majority of families are equally distant from both churches, according to the testimony of witnesses; not due to the roughness of the roads: for this is not the case for those who live on the plain, as the aforementioned testimonies indicate; nor for those who live in the valley, who are closer to St. Andrew's; because the ascent to the hill cannot be considered very difficult, especially since the public, municipal road, which runs through the valley and passes by the church of St. Andrew, ascends the hill and is not far from the church of St. Lawrence. Furthermore, while the journey may be difficult for some to reach St. Lawrence, for others it is more convenient. Nor can the desire of the people be invoked; since, while fifty have signed in favor of the relocation, an equal number have signed against it, and now, sometimes together, sometimes separately, they often and frequently pray for the preservation of the ancient site. Finally, the alleged indecency or inadequacy of the church of St. Lawrence cannot be invoked. As for decency, since it has been restored in recent years, this objection no longer holds. As for capacity, the same pastor notes that in the year 1854, there were three hundred and fifty-seven souls in the parish; whereas now there are only three hundred and twenty-seven, and therefore the number of

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the people has decreased: thus, the church, which was then considered adequate, cannot now be considered inadequate, given the reduced population. Certainly, the church of St. Andrew is larger and, due to its recent restoration, more splendid; but such advantages are overshadowed by a serious defect, namely, the dampness and unpleasantness of the location; while, conversely, the relative narrowness of the building of St. Lawrence is said to be compensated for by the light and airiness of the location, which is confirmed by the testimonies presented. Given these circumstances, another difficulty to the relocation is that it would seem unfair to require the pastor to live in a less healthy environment, abandoning the more favorable climate, under a harsh sky. For he obtained the benefice in this place, and has always resided at St. Lawrence; moreover, he is an old man, afflicted by illnesses and suffering from leg problems; hence, the doctors have testified to the pastor, taking these matters into consideration.

[*Latin ed. p. 47*]

In LUCANA 47, his infirmities, it would be most harmful for him to reside in the more humid and depressed valley. WHAT SUPPORTS THIS TRANSLATION. From the documents presented by the Ordinary, it is clear that the parochial right belonged from its origin to the Church of St. Andrew, not to St. Lawrence. It is stated in the Acts of Visitation of the year 1575: "John B. Castrili, Bishop of Rimini, on June 16th, established the Church of St. Andrew as a perpetual vicariate, and granted the right of patronage to the Rector of Montismagno for the time being." Furthermore, in the book of visitations of the year 1616, it is written that the Rector of Montismagno exercised the right of patronage, presenting Anthony Jacobisci as a perpetual vicar for the vicariate erected in the Church of St. Andrew. In the sacred visitations, it is repeatedly confirmed that the parochial church is the Church of St. Andrew; and thus, in the Acts of Visitation of the year 1726, it is read: "The Reverend Visitor presented himself to the parochial church of St. Andrew of Ponte Mazzori..." Moreover, the church itself has always been united to the parochial church of St. Michael of Montemagno, and the Rector of Montismagno appoints the perpetual vicar; concerning the Church of St. Lawrence, it is stated: "The same Visitor visited the church of St. Lawrence of Ponte Mazzori, a filial church of the aforementioned Church of St. Andrew, etc." And so it is also in the Acts of Visitations of the years 1733, 1773, 1782, 1790, 1802, etc. The Bishop continued, "If, in the decree of the canonical institution of the perpetual parish, churches of this kind are called 'perpetually united,' this stems from an error made by the Vicar Dinelli, who, since the year 1833, has wished to call these churches 'perpetually united,' and has said that they are the second Church of St. Andrew, and the first Church of St. Lawrence. However, if one considers the time before this Vicar, one always finds a perpetual vicariate of St. Andrew..." Furthermore, if the

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perpetual vicariate was established from the beginning at St. Andrew, it cannot be said today that it has been transferred to St. Lawrence, and that it is located there, even though the Most Holy Sacrament is reserved there, the parish priest resides there, and most of the ordinary offices of pastoral ministry are performed there. For...

[*Latin ed. p. 48*]

7i8 LUGANA: Because it frequently happens that the title of parish church remains with one church, but, circumstances requiring it, a pastor resides in another parish church. In such a case, it is customary for the congregation to gather in the old parish church on the more solemn days of the year. And this occurs precisely in the matter at hand; indeed, even more so. For not only are some of the more solemn feasts celebrated there in honor of St. Andrew, but all of them, with the exception of Pentecost: indeed, it is also necessary to gather there on the first Sundays of each month and on other occasions; there, marriages are commonly celebrated, although by the will of individual families, and there, funerals are always held. Since these things are so, and in practice, the church of St. Andrew does not appear to have been stripped of the title of parish church; indeed, since the pastor, although residing at a distance, must so often come to it, this can only be attributed to the reason that the church of St. Andrew possesses a stronger and more certain right to be considered a parish church. This being the case, the transfer of the canonical residence to that church cannot in any way be called an odious or harmful act, but rather is perfectly in accordance with the nature and prerogatives of both churches. Regarding the inconvenience to the people, the Ordinary noted that two priests, of considerable experience, were sent there by the Curia, to gather information, and that the patron and fifty-five local residents, who have signed a petition in support of the patron, unanimously stated that the community is not burdened by the inconvenience of the distance resulting from the transfer, but rather that it is only altered, and that some families are transferred to other places, as has already been mentioned above; therefore, this difficulty does not seem to be of great importance. However, with regard to the unhealthiness of the place, the patron and the Curia maintain that this is lacking, citing the testimony of doctors, who, after having visited the place, testified to the purity of the air, and to the comfort of the church, sacristy, and parish buildings. Therefore, according to the documents presented, the unhealthiness of the place cannot be opposed to the transfer. Furthermore, a certain element of decency is involved. If...

[*Latin ed. p. 49*]

LUCANA. Indeed, as all the alleged physicians affirm, the church of Saint Lawrence is narrower, while, conversely, the church of Saint Andrew

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is more spacious; this is confirmed by the patron in a detailed report sent on this matter. Furthermore, in the records of the parish of Fulginata, dated March 16, 1782, it is written that the transfer "is considered useful and necessary, also for the sake of decency and convenience of the new parish church." This should hold even more weight in this case, since we are not speaking of a transfer, but rather of the restoration of the seat to its proper title. Regarding the disagreement among some of the parishioners, it is hoped that it will cease. For, as it was ordered in 1876 that the sacred functions be transferred to Saint Andrew, serious difficulties arose in the execution of this decree, as the Ordinary writes, and many people frequented the sacred functions in the church of Saint Andrew. Moreover, in these recent times, when the matter of the transfer of the seat was being discussed, and the parish vicar opposed it and appealed to the Sacred Congregation, the Archbishop, in a conversation with him, remarked that his opposition to the new location was causing concern that could be feared. Therefore, it is believed that, with this obstacle removed, the different factions of the people will come to an end. With these premises, the following question was proposed: Whether the place for the transfer of the parish seat is the church of Saint Andrew, or rather, whether one should adhere to the decision of the vicar of Lineili in the year 1833 in this case. RESOLUTION. The Sacred Congregation, after deliberation on April 2, 1887, decided to respond: Negatively to the first part, affirmatively to the second. FROM WHICH THESE ARE GATHERED. I. The status of a benefice can be changed by an immemorial custom, by a lapse of one hundred years, or even forty years; for from such a long-standing custom, a rightful title is presumed. Acts, Vol. XX, section COXXIX, 4.

[*Latin ed. p. 50*]

SO LUGANA IL: Furthermore, according to an age-old custom, parish churches, which were formerly movable, may change their status if, over a certain period of time, they have acquired the quality of permanence. III. It is fitting for the proper governance of souls, it is fitting for the honor of the Church, and finally, it seems just, that a church should not lose rights which it has possessed for a long time. I V. The church, in its location, whatever its origin may be, appears, according to the documents and testimonies presented from time immemorial, to enjoy the rights of a parish. ——==^^e>58^3<==——- URGELLEN. REGULATION CONCERNING THE REDUCTION OF BURDENS AND THE UNION OF BENEFITS. April 2, 1887. By summary petitions. SUMMARY OF THE CASE. Anthony Riera, a beneficiary of a certain collegiate or prebendal church in Agramunt, in the diocese of Uxel lens, presented the following in a suppliant petition: "In the parish under the title of the Assumption of the Blessed Virgin Mary in Agramunt, there once existed a community of twelve beneficiaries, whose principal duties were to sing the daily hours in the choir, the conventual Mass,

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and to chant many anniversaries from a pious foundation, and to apply chosen Masses. " The civil government, by force of the aforementioned laws of desamortization, deprived the community of its property, and, according to the Concordat concluded with the Apostolic See, promised to give the community certain titles commonly called "intrasferióles de la Deuda pública," to compensate for the property taken. "The aforementioned community, like other communities of the ancient Kingdom of Aragon, ought to subsist by virtue of the laws of the Concordats, but because the civil government did not give the aforementioned titles, it has completely disappeared due to the lack of resources, remaining with only one beneficiary."

[*Latin ed. p. 51*]

URGELL. There is a surviving benefactor who provided services to the church, singing in the choir on Sundays and celebrating penitential Masses, along with a parish priest who possesses another independent endowment. "Given these circumstances, the old obligations cannot be removed, and nevertheless, the government sometimes, considering certain respectable individuals who receive only a third or a fourth of what is due, assigns and grants a portion of its revenues to alleviate these obligations. "Therefore, the benefactor, who is found to be willing to alleviate the burdens at the Bishop's discretion, requests, through Your Excellency, the opportunity to receive a portion of said revenues, both for the services rendered to the church and for his own honest sustenance in the future, all according to the Bishop's judgment." To these requests, the Bishop added his assent: "The Bishop of Urgel testifies that the community, about which we speak in these requests, was formerly composed of benefactors who had no endowment, or very little, sufficient for their proper support; so that the goods of the community had to be applied as choral distributions to alleviate pious burdens. Therefore, when the aforementioned goods were taken by the government, the community was, in fact, extinguished due to the lack of proper support. "The portion of revenues granted by the government is insufficient to re-establish the community as it was formerly constituted, both because of the smallness of these revenues, or choral distributions, and because it would be established on an uncertain and very unstable foundation, and also because the benefices themselves are unsuitable due to the lack of a proper endowment in every way. "Therefore, the undersigned Bishop considers it appropriate that a capital fund be established from the revenues granted by the government and from all other sums belonging to the community, which may perhaps be transferred in the future, to found one or more benefices in proportion to the capital, with an endowment and obligations approved by the Ordinary, as was established

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by the Holy See."

[*Latin ed. p. 52*]

52. URGELL. In the year 1867, the Holy See, in a convention with the government, known as the "Ley de Capellanías," stipulated that the assets of other benefices, as well as the capital derived from the redemption of pious ecclesiastical obligations, such as Masses, anniversaries, etc. (which are held by the Ordinaries), should be applied by the Ordinaries themselves, by virtue of apostolic authority, to the founding of new benefices with a suitable endowment and obligations, after the previous ones have been completely extinguished. The Bishop of Urgel believes that, in general, for the purpose of extinguishing benefices, it could be determined that benefices constituting a community are, in fact, extinguished; always preserving the foundation of a benefice for a priest, during his life, to whom, for the services rendered to the Church of Agramunt, it seems just to grant a sum as a reward or stipend, and also to assign him, in the future, some endowment as a suitable support for the obligations imposed by the Ordinary, to be fulfilled by the priest himself, in accordance with the aforementioned Convention of 1867.

The Disputatio Synoptica of the Council of Trent, Session 14, chapter 15, on reform, states: "In important cathedral and collegiate churches where the prebends are frequent, and therefore small, together with the daily distributions, so that they are not sufficient to maintain the canonical rank in a manner befitting the place and the persons, it is permissible for Bishops, with the consent of the chapter, to unite some simple benefices, not regular ones, with them, or, if this cannot be provided for in this way, to suppress some of them, so that the fruits and revenues of the remaining prebends are applied to the daily distributions, reducing them to a smaller number." Therefore, the reduction of benefices, which the Bishop requests, would seem to be almost entirely within his power. I say "almost" because, while the reduction itself would not be inherently improper, it would be excessive, since it would tend towards the extinction of the collegiate or community. Furthermore, in the unions [mentioned in the Council of Trent],

[*Latin ed. p. 53*]

URGENT MATTER. 53. It is clear, as expressly stated in chapter 18 of Session 23 concerning reform, that these matters must be addressed "without prejudice to the divine worship." However, it would happen that pious works, Masses, psalms, and other sacred functions would necessarily be diminished or even completely cease due to the reduction of benefices. But, guided by justice and equity, the burdens of benefices ought to be reduced according to the resources available, and no one can be obliged to do more than is possible. Therefore, in the case where it is established that the revenues of the community are almost entirely consumed, and that

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those that remain are uncertain, both the request of the Bishop and the plea of the beneficiary should be considered; all the more so because the concordat of Spain has approved the reduction of benefices and burdens. With these considerations in mind, the question was raised as to how the requests should be addressed. RESOLUTION. The Holy Sacred Congregation, having considered the matter, responded on April 2, 1887: "The Ordinary should proceed to the erection of one or more benefices, as he will be able to endow them from the existing revenues, in accordance with the convention of the year 1867."

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF PHARENSIS AND SPALATO, CONCERNING JURISDICTION, ADMINISTRATION, AND SUBSTITUTION. SUMMARY OF THE CASE. Within the boundaries of the Diocese of Pharensis, three hermitages were established in the 15th and 16th centuries, named Silvio, Valdispina, and Blazza, under the jurisdiction of the Archpriest of Neresi. The hermitage of Valdispina, concerning which the present matter is raised, is said to have been built, and this is agreed upon by the disputants, through the efforts of certain priests of the territory of Poglizza, in the Diocese of Spalato. These priests, fleeing Turkish incursions, and having received a grant, collected funds by selling their properties, and established foundations.

[*Latin ed. p. 54*]

54. PHARENSIS AND SPALATEN. acquired property and established a permanent residence near the village of Valdispina. This hermitage, with the priests residing there, was always under the jurisdiction of the Bishop of Pharensis; as is evident from letters of that same Ordinary from the year 1539, in which he asserted the submission of the hermits of that place to his own episcopal authority, stating: "We now, as from then, submit and place all of them, individually and collectively, under the immediate obedience of the Bishop of Pharensis and Brachia, and of his general vicars for the time being, to whom they should and must show only due obedience and reverence." Another argument, to demonstrate the submission of these hermitages to the Bishop of Pharensis, is derived from the acts of ordination and from the dispensations, granted by the Bishop of Spalato to priests who were to be received into these hermitages, with the following clauses attached: "We grant the dispensation, so that all our jurisdiction, to which you have hitherto been subject, should be considered to have passed to the Ordinary of the Diocese of Pharensis and Brachia." The priests gathered together in these hermitages formed a congregation of secular priests, which was governed by its own laws, but was nevertheless dependent on the Bishop of Pharensis, as he himself states. Meanwhile, the faithful who inhabited the surrounding villages and hamlets had increased significantly in number, and they petitioned to be separated from the distant parish of

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Neresi, and to be placed under the care of the rectors of the hermitages of Valdispina and Blazza, which had previously been established near the hermitages, forming two independent parishes. In response to this petition, the Bishop of Pharensis, in the year 1851, took action with the civil government to establish two curacies; and, after overcoming many obstacles, he was able to accomplish this in the year 1857; and the property of the hermitage of Silvio was granted, as a complement to the endowment, to the rector of the hermitage of Valdispina. This rector was warned by the civil government of the obligation to preserve and transmit to his successor both the property constituting the endowment, and the hermitage building and the church with its sacred furnishings and utensils.

[*Latin ed. p. 55*]

PHARENSIS AND SPALATEN. 55 While these matters were being addressed, the Rector of the Seminary, Prike, from the Diocese of Spalato, asserted that the patronage rights over the Hermitage of Valdispina belonged to him and his successors, and he requested the Bishop of Spalato to uphold this right. The prelate, acting in his own interest, petitioned the Curia of Pharensis, requesting that the administration of the property be transferred to a priest from the territory of Poglizza, in the Diocese of Spalato. However, these efforts proved fruitless, and he appealed to the Apostolic See, stating that the chaplaincy of Valdispina had not been legally established in that hermitage. For although the authority of the civil government and the Bishop of Pharensis was present, the wills of the testators did not permit it, and the transfer of the hermitage's property to the person of a chaplain for the time being could not be lawfully carried out unless authorized by the Roman Pontiff, who alone has the power to alter dispositions made for pious purposes. Therefore, he requested the restitution of the property belonging to the Hermitage of Valdispina to some priest from the territory of Poglizza, in the Diocese of Spalato, to whom the burden of administration would be entrusted by the Bishop.

SYNOPTIC DISCUSSION. He supports his petition with three testaments; relying on these, and although the title of foundation is lacking, he maintains that certain priests from the territory of Poglizza, in the Diocese of Spalato, were the founders of the Hermitage of Valdispina. He argues that: 1. The office of rector and the administration of the hermitage rightfully and actually belong to some priest from the territory of Poglizza, under the ecclesiastical jurisdiction of the Ordinaries of Spalato; 2. The Bishops of Pharensis have, rightfully and actually, appointed priests of the Hermitage of Valdispina to any ecclesiastical office. To demonstrate this, he presented a testament of Rector Marin Capitaneis, dated October 29, 1526, which shows that the election of the Rector is to be made by the Bishop of Spalato, among the inhabitants of the territory of Poglizza. From this, it is also inferred that, in general, the property of the hermitage

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belongs in trust to all the inhabitants collectively and to all the members of the hermitage.

DEDUCTIONS OF THE BISHOP OF SPALATO.

[*Latin ed. p. 56*]

56. FARO AND SPALATO, moreover, offer another argument from their testaments. The Rector, Father Michael Daghelic, in his handwritten will of the year 1685, stated: "It is necessary that the Rector of this Hermitage be from the territory of Poglizza, because only the inhabitants of this region contributed goods for the establishment of the Hermitage." Consistent with these testamentary provisions are other stipulations found in the will of Rector Taddei Sicich, dated 1774. The Rector stated: "I and other priests, the legitimate superiors of this Hermitage, had the Ordinary of Spalato as our ecclesiastical superior; where we were born and received the sacred orders. As for spiritual matters, we were under the authority of the Ordinary of Faro. We were not required to render accounts to anyone concerning our affairs; because all the goods came from the territory of Poglizza, therefore they are ours." From the will of Rector George Radovic, dated 1824, in addition to the property bequeathed as a trust, to the heirs of the territory of Poglizza, there is the provision for the election of two priests, who, according to the will of the testator, will ensure that two young men from Poglizza are supported from these revenues, so that they may become priests for the benefit of this place. No one will be accepted into this community unless they originate from Poglizza... and if it should happen that no one is present from Poglizza, then everything will revert to the Seminary of Poglizza. The priest Michael Radovic made similar provisions in his last will and testament, favoring priests from Poglizza. It cannot be denied that there are some provisions in the will of Michael Radovich that do not entirely align with the testator's principal intention. It is stated that if there should be no priest present in this place for administration, then the Bishop of Faro shall appoint a priest who knows how to administer and who will render accounts to that Bishop. For any necessity, the administrator shall appeal to the Ordinary of Faro, who, as those before him have done in the past, will never refuse assistance. However, it is argued that if the power is given to the Bishop of Faro to appoint a priest, it is not stated that this priest...

[*Latin ed. p. 57*]

PHARENSIS AND SPALATEN. 57 A priest should not be from Poglizza. Regarding the matter of Valenti, from the last will, article 12, number 13: "For there is nothing older in the law than to adapt and understand the words of a testament so that they serve the intention of the testator, and to draw them towards that intention. The words must be understood accord-

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ing to the subject matter and the nature of the act. The testator should not be considered to have contradicted himself." Granted and conceded that the Bishop of Pharensis could have chosen any other priest, this power should be considered entirely temporary; otherwise, it would not be possible to reconcile the respect due to predecessors, which the testator demonstrates in the very testament, and the desire that their dispositions, as regards the Hermitage, be observed in the future. Moreover, if the Hermitage of Valdispina is considered to be like an ecclesiastical society, as recognized by civil and ecclesiastical authority, then it does not need a foreign curator, as long as it can, by itself, provide for its own preservation and progress. And therefore, these rights should remain intact and be incorporated into one legitimate rector and administrator, and the supposed rights of the Bishop of Pharensis should be subordinate to the laws of the foundation. Supported by these arguments, the Ordinary of Spalato sought the removal of the rector from the Hermitage of Valdispina, since he is not a native of the territory of Poglizza. And in truth, all difficulty is dispelled by the very words of the Twelve Tables, Averanius, Interpretationes Juris Civilis, book 4, chapter 1, number 4: "As the testator has bequeathed, so let it be the law: for first of all, the law of the Twelve Tables grants the fullest power to dispose of one's own things, and the dispositions of testators are ordered to be held as valid, just as the law itself, as it is read, so let it be. And in later times, our legislator in the Authentica de Nuptiis, 2, 2, states that each one disposes of his own things, and let his will be the law. Therefore, when the testator has disposed of his own things, the law in no way intervenes, and in a certain way removes itself, so that the disposition of the testator is held valid in all things, to which the law grants authority."

[*Latin ed. p. 58*]

38. PHARENSIS AND SPLATEN. From what has been said, it follows that the Rector and administrator would not be obligated to render an account to the Bishop of Pharensis, and that this would not be contrary to Session 22, chapter 9 of the Council of Trent; for although it is prescribed there that "administrators of whatever pious places are to render an account each year to the Ordinary of their administration," nevertheless the same Council adds: "unless, perhaps, it had been expressly stipulated in the institution and ordination of such a church or foundation." OPINIONS OF THE BISHOP OF PHARENSIS. The arguments presented by the Ordinary of Pharensis to support his full jurisdiction and the dispositions made concerning the Eremum Valdispina are not of minor weight. Regarding jurisdiction, it is certain that the Bishop of Pharensis declared in patent letters from the beginning that the Eremum Valdispina was under his jurisdiction. Indeed, from the year 1731, the Bishop of Pharensis granted the Rector of Valdispina the faculty of rebuilding the church of the Eremum, of burying the dead in the church, of reserving the Most Holy Eu-

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charist, and many other things which indicate episcopal jurisdiction. To further strengthen this, he adduces a humble petition from the priests of Valdispina to the Most Serene Prince, in which they request his protection against the grievances inflicted upon them by the same impious individuals, while declaring themselves subject to the authority of the Bishop of Pharensis. Furthermore, it cannot be said that through the dispositions made between the Bishop and the Austrian Empire, any detriment has been brought to the Eremum Valdispina; rather, its existence has been made safe for all future times, for the good of souls; and the person of the Rector has been equated with that of other parish priests before civil authority; and as long as the interior life of the Eremum remains intact, it acquires a new and effective title, as if it were a newly established curatial chapel, because it has been placed under the protection of the laws of the Empire. Moreover, since, by virtue of the Concordat between the Holy See and the Austrian Emperor, the Bishop was able to erect minor benefices; and, after consultations with the Imperial Majesty, especially concerning the convenient assignment of revenues, parishes...

[*Latin ed. p. 59*]

PHARENSIS AND SPALATENSI. In the year 1809, it was decided to establish, divide, etc., a Rectory and Chapel, appointing a curate as its administrator, without any opposition from the "Spalatensi" Bishop, who considered that no rights were being violated. Twelve years after the establishment of the Chapel, the Seminary Rector, Priko, protested against what had been done concerning the Valdispina Hermitage; and he sought to assert his patronage over it, using three testaments as proof. The "Pharensis" Bishop, however, observed that by appointing the present Rector, he had not intended to exclude priests from Poglizza, should they be suitable for the office of Rector and parish priest; nor had he intended to abolish the Hermitage by appointing a curate to the Chapel in the same person as the Rector; rather, he had preserved the members of the Hermitage and provided sufficient resources for their sustenance. However, these matters were complicated by the fact that the testaments presented were found to be adulterous, and the Bishop endeavored to prove this through various means. Firstly, he stated that before the year 1873, no one knew of these testaments, and that there was no trace of them in the courts of "Pharensis" and "Spalatensi"; furthermore, the members of the Hermitage had not been concerned with them, since they were often contrary to the same regulations. For the members of the Valdispina Hermitage acknowledge their own subordination to the "Pharensis" Bishop; and the Hermitage's assets are sacred, and the Rector is not authorized to dispose of them at his own discretion. Moreover, many of the presented documents contained notes of falsity, both internal and external, and also due to chronological inconsistencies; and there were contradictions in these testaments, such

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that the disposition of one would destroy the disposition of another. Furthermore, an analysis comparing the documents revealed that one testator was unaware of the dispositions of the other; which is unlikely. With these points established, the following questions were raised and needed to be clarified: I. Whether the "Pharensis" Bishops have full jurisdiction over the Valdispina Hermitage, so that the appointment of a curate in this case can be upheld. II. Whether the administration of the assets of the Valdispina Hermitage...

[*Latin ed. p. 60*]

60 PHARENSIS AND SPALATO. A debt is owed by the priest from the territory of Poglizza in the Diocese of Spalato in this case. I. It must be established and verified whether the right of substitution exists in this case. RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, on the 10th of December, 1886, decided to respond as follows: To II, negatively. To III, after discussion under I, negatively, and furthermore. FROM WHICH IT IS UNDERSTOOD: I. The subjection of the Eremite to the jurisdiction of the Bishop of Pharensis has been widely approved by Valdispina with strong arguments; while the contrary thesis has remained almost entirely without proof. FROM THE DECREE OF THE SACRED CONGREGATION FOR INDULGENCES, concerning indulgences and privileges granted to the pious work of the Propagation of the Faith, from Mechlin and Vincenza. The pious and illustrious work of the Propagation of the Faith, by a wonderful disposition of Divine Providence, arose some years ago in Gallia, and then spread widely throughout the entire Catholic world, and it is known how much it has contributed to the propagation of the Catholic faith even in the most remote regions. From its very beginning, such a pious work has been followed with singular care by the Roman Pontiffs, and in order that the faithful might support this most beneficial work with their alms and daily prayers, the Pontiffs have reserved treasures of indulgences, especially for priests, who either generously contributed their own stipends, or collected alms from others to support it. Thus, Pope Pius IX, by a rescript of December 31, 1871, and Our Most Holy Lord Pope Leo XIII, by a rescript of May 25, 1881, granted special faculties and privileges. Indeed, doubts have arisen concerning certain conditions required in order to enjoy the indulgences granted to those attached to the pious work of the Propagation of the Faith, and also concerning the correct understanding of the aforementioned rescripts. Some of these doubts were presented to this Sacred Congregation by a priest from the Archdiocesis of Mechlin, specifically appointed by the Archbishop to collect alms for the support of this aforementioned pious work; others were presented by

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Abbot Meinardi of the Order of St. Benedict.

[*Latin ed. p. 61*]

From the Instruction of the Sacred Congregation concerning Indulgences, 61, concerning a diocese in Vincenzapoli, in the United States of America, which was first presented to the Congregation responsible for spreading the Christian Name, and then transmitted to this Congregation concerning Indulgences and Relics. The following questions arise:

I. In a diocese where the pious Work of the Propagation of the Faith exists, with the approval of the Ordinary, but is not properly established, for example, because it is not evident from the diocesan Council, the Chapters, the Centuries, and the Decuries, the following is asked:

1) Whether those enrolled in this pious Work can enjoy both the plenary and partial Indulgences granted to that Work, and (if they are priests) the faculties and privileges granted to certain priests, either by Pope Pius IX, in his Decree of December 31, 1871, or by Leo XIII, in his Decree of May 25, 1881?

2) What constitutes the proper organization of this pious Work for these purposes?

II. What enrollment is required for this pious Work, so that one may enjoy the Indulgences, and the faculties and privileges granted?

III. Who has the power to enroll new members?

IV. Can those enrolled who do not habitually recite the prescribed prayers daily, namely, one Our Father and Hail Mary, and the invocation of St. Francis Xavier, "Pray for us," or who neglect to pay their weekly offering,

1) enjoy Indulgences?

2) or, at least, enjoy some of the faculties and privileges granted to certain priests?

V. By the Decree of December 31, 1871, which was extended for another seven years, first on June 16, 1878, and then on June 7, 1885, certain faculties and privileges were granted by Pope Pius IX to certain priests, but with the express condition of the consent of the Ordinaries; the following is asked:

1) Whether, without this consent, the use of these faculties and privileges is valid? And, if so,

2) Whether each priest who wishes to use these faculties and privileges must individually petition the Ordinary to obtain his consent?

3) Or, whether the Ordinary can, in general, grant his consent to all priests in his diocese who have indeed fulfilled the required conditions?

4) Or, indeed, whether it can be maintained that, if the Ordinary approves the existence of the pious Work for the Propagation of the Faith in his diocese, this itself constitutes sufficient grounds for obtaining his

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consent for this purpose?

VI. When an Indult is obtained from the Supreme Pontiff for a period of seven years, and is extended before the expiration of that seven years for another seven years, is asked whether the extension begins to run from the very day on which it is obtained, or from the day on which the previous Indult expires?

[*Latin ed. p. 62*]

62 REGARDING INDULGENCES, SECTION VII. By the aforementioned Rescript of December 31, 1871, to priests who, in a given year, have paid the sum of 260 francs, or 2600 francs, whether this sum has been collected by them, or has been entrusted to their hands (centralized in their hands), or has come from their own generosity, various faculties and privileges have been granted, for as long as (during a seven-year period) they actually pay that sum. The question is asked: From what point in time can a priest who collects begin to use these faculties and privileges? VIII. Whether: 1) Regional committees of the pious works of the Propagation of the Faith and the Holy Childhood can separate themselves from the central committees of Paris and Lyons, and form an independent society, which distributes the collections within its own region, or even in regions entirely outside the faith, according to the purpose of the aforementioned works, yet independently of the central societies; and whether: 2) By the very fact of separation, they lose the spiritual privileges, which have been graciously granted to these works by the Holy See? The Most Reverend and Reverend Fathers, in a general Congregation held in the Apostolic Palace at the Vatican on June 25, 1887, responded as follows: To the first part of the question, I: Affirmative. To the second part: It is desirable and should be ensured that the constitution of the work is in accordance with the norm approved by the Holy See; if this is not possible, it is sufficient that at least the Ordinary presides over the pious work, with one or two advisors. Regarding II: The custom should be maintained: For obtaining indulgences and enjoying the privileges, it is sufficient that the prescribed works are carried out. Regarding III: Anyone who has the legitimate right to collect alms may enroll new members. Regarding the first part of question IV: Negative. Regarding the second part: Affirmative, to the extent that those privileges were granted because of the pious collection of alms, or the work performed in the committees. Regarding the first, second, and third parts of question V: Affirmative. Regarding the fourth part: Negative. Regarding VI: From the date of the extension, as stated in the resolution of the Holy Congregation of May 20, 1711. Regarding VII: The collecting priest has the right to the privileges from the day on which he has paid either the entire sum for one year, or a portion of the sum, according to the statutes of the work. Regarding the first part of question VIII: It does not apply. Regarding the second part: The indulgences and

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privileges are lost.

[*Latin ed. p. 63*]

FROM THE HOLY GENERAL INDULGENCES CONGREGATION, No. 6: Concerning all the matters presented, a hearing was held by the undersigned Secretary on July 16, 1887, and the Most Holy Pope Leo XIII approved the responses of the Cardinals. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on July 16, 1887. Fr. THOMAS M. CARD. ZIGLIARA, Prefect. ALEXANDER, Bishop of Oenus, Secretary. DECREE: Regarding various doubts from several dioceses. The following doubts, to be resolved, have been transmitted to this Holy Congregation for Indulgences and Sacred Relics from several dioceses: I. Whether the Decree of Pope Alexander VII, dated February 6, 1657, and another Decree of the Holy Congregation for Indulgences and Sacred Relics, dated February 23, 1711, are authentic? II. Do crosses, crowns, rosaries, statues, etc., lose their indulgences if they have passed from one hand to another, and then to a third and even a fourth? III. Must indulgences be given to the faithful entirely free of charge, so that if anything is required or accepted for them, whether by title, price, exchange, gift, or alms, the indulgences are thereby lost? IV. On January 12, 1878, it was decided by the Holy Congregation for Indulgences and Sacred Relics that, unless otherwise expressly stated in the indulgences, the indulgences begin to accrue not from the first vespers, but from midnight to midnight. Now, the question is whether this should be understood so strictly that even those indulgences that are to be accrued on feast days do not begin until from midnight to midnight, unless the clause "from the first vespers" is added in their granting? V. By a General Decree of the Holy Congregation for Indulgences and Sacred Relics, dated August 9, 1852, it was decreed that the transfer of indulgences should be made if the transfer is made with solemnity and external celebration. Now, the question is—1°) whether that Decree is valid not only where it is a question of indulgences granted to all and each Christian, but also where it is a question of indulgences granted to religious.

[*Latin ed. p. 64*]

64. Concerning Indulgences, Sodalities, pious Unions, etc., from the Sacred Congregation: 2°) Whether it is valid if it concerns a perpetual change of the feast day, or only a temporary change of the feast day, which occurs either once or in that year due to the occurrence of another feast of greater rank or dignity; 3°) Whether it is valid whether the change is made throughout the entire Church, or only throughout the entire Diocese, or even only in one or another particular church within the Diocese; 4°) What is properly understood by the terms "solemnity" and "external celebration" of the feast? V. Whether he who has the faculty of blessing crosses,

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rosaries, etc., and of applying Indulgences to them, can also bless crosses and rosaries for himself, and, by using them, obtain Indulgences for himself as well? VII. Whether he who has the faculty of admitting members into a certain confraternity or pious association, can admit himself into that same association, so that he may obtain the Indulgences that are attached to it? And the Most Reverend and Illustrious Fathers responded in the general meetings held at Vatican on June 25, 1887: To I: Affirmative. To II: Negative. To III: Affirmative for both sides. To IV: Adhere to the terms of the concession. To V: No response is required. To VI: Affirmative. To VII: Affirmative, insofar as this faculty is held indiscriminately, and not, on the contrary, restrictively, as in the document of Cambray of March 7, 1840. After a report on all of these matters was made in an audience held by the Most Holy Pope Leo XIII on July 16, 1887, the Most Holy Pope approved the responses of the Cardinal Fathers. Given at Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on July 16, 1887. Fr. THOMAS M. CARD. ZIGLIARA, Prefect. ALEXANDER, Bishop of Oenensis, Secretary.

[*Latin ed. p. 65*]

65 FROM THE HOLY CONGREGATION OF THE COUNCIL OF PATTI. OF ECCLESIASTICAL JURISDICTION, April 2, 1887. Session 25, chapter 9, concerning Reforms. SUMMARY OF THE CASE. The noble family of Orioles, as has been narrated from ancient times, has bestowed many benefits and favors upon the parish church of Saint Mary of Chains, in the diocese of Patti, erected in the town of Saint Piero sopra Patti, of which locality the aforementioned family was the feudal lord. Among these benefits, the most important is that which was granted in the year 1282 by a certain Felicia Orioles, by which a collegiate church was founded and endowed, consisting of 11 canons and an archpriest-parish priest. In modern times, due to the civil confiscation of property, the collegiate church has been stripped of all its possessions, and it is said that only seven canons remain, and the communion of priests has been irrevocably suppressed; moreover, the revenues of the parish and the church are so meager that they scarcely amount to 282 florins annually. Furthermore, the fabric of the temple is decaying: there is no hope that it can be restored with the help of alms, so that it may not be closed to worship in a short time. Considering these matters, Caesar d'Orioles humbly petitioned the Apostolic See for patronage over that church, or at least for the right to perpetually present the archpriest-parish priest, and for other rights of honor in that same church. He also promised to provide a sum of money, by which the decaying church could be restored. After considering all these things, it was deemed necessary to respond to the petition "that it cannot be granted as requested." However, about a year later, D'Orioles again insisted, stating that the church... (The

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text is incomplete).

[*Latin ed. p. 66*]

66. The *pactum* offered signs of ruin, so that the parish priest and others of the clergy were angered by the cares and fears that it engendered, and therefore, the concession of grace was necessary. The Bishop also insisted; hence, it was decided to write: "Let the petitioner first reconcile himself with the Bishop, and then, let him appeal, being commended by the same." Subsequently, the Bishop reported that the Lord D'Orioles had come to him and had agreed to the following: D'Orioles would secure, for himself and his heirs perpetually, the patronage over the Church of St. Peter, with attached honors; and therefore, with the right to present the archpriest and parish priest; D'Orioles also obligated himself to provide for all the restorations of the decaying church, for which a sum of 8000 livres is presumed; and to provide the parish priest with 150 livres per year, in addition to the revenues that the parish priest currently enjoys. After these things, the Prelate requested that the petitioner's prayers be heard, and that this be done as quickly as possible, given the condition of the church, which is deteriorating day by day.

DISCUSSION: *Syllogism*

WHAT FAVORS THE PETITION. The common opinion of Doctors holds that, according to Chapter 25 of *De Jure Patronato*, patronage can be acquired either from the foundation or from the endowment separately, that is, it can be obtained either through the sole foundation or through the sole endowment. Fagnanus himself, in Chapter *Quoniam* of *De Jure Patronato*, number 49, observes that "to acquire the right of patronage, it is not necessary that one person should found, build, and endow the church, but it is sufficient that one should give the land, another should build, and another assign the endowment, with the consent of the diocesan." Maschat perfectly agrees with this in his *Canonicæ Institutiones*, book 3, title 38, question 1, number 4, stating that "to acquire the right of patronage, it suffices to perform one of three things: to found, to build, or to endow," chapter 25, *ibidem*. And, among others, Ferraris in *De Jure Patronato* and Reifenstuel in the same title agree.

[*Latin ed. p. 67*]

PACTEN. 67 Indeed, he who restores a collapsed church at his own expense, or who restores a lost endowment through beneficence, also acquires the right of patronage in the church or benefice, as the Glossa states in chapter "Quoniam" of De iurepatr.; therefore, indeed, he has the right to exclude the original patron, provided that the latter has failed to appear and refuses to restore the lost endowment, as Fagnanus states in the aforementioned chapter. Reiffenstuel, in his book 5 Decret, title 58, number 9, also notes that he who founds, endows, or builds a church, as

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well as he who restores it, acquires the right of patronage by virtue of the law itself, even if he does not request it or include it in a contract, as is clearly stated in chapter "Nobis" 25 of De iurepatr., along with the Glossa attached to chapter 9 of De consecr., dist. 1, and in numerous other places. Therefore, in the case of the aforementioned petitioner, if he restores a church damaged by the elements, or if he endows a parish whose revenues have been exhausted, he acquires the right of patronage by virtue of the law itself, even without requesting it. Therefore, his offer would seem so generous that his request would appear superfluous and unnecessary. Moreover, if one considers the ancient merits, titles, and rights of the noble family of Orioles: for they founded and endowed a college, repeatedly restored a church, and enriched it with legacies and benefices on more than one occasion, so that, according to what is asserted, all the wealth and property there present should be attributed to that family. Furthermore, the urgent need of the church, which seems to be unable to be met in any other way than through the charity and generosity of the family of Orioles, also provides a reason for granting or recognizing the right of patronage. Indeed, what the aforementioned petitioner offers to acquire the right of patronage seems insufficient. For, since he himself promises approximately 8,000 livres for the construction of the church, which would be sufficient to repair the dilapidated building; and since, moreover, in the most recent agreement, he has promised an annual income of 150 livres to the parish priest for a time, which would bring the parish's legal income to the proper sum of 100 scudi, it seems unseemly not to offer anything further; and furthermore, Tridentinum, session 25.

[*Latin ed. p. 68*]

68. In the decree *De reformis*, chapter 9, it is explicitly stated that patronage can be acquired, indeed, in a significant manner, through an increase in the endowment, although incidentally. For it is the will that Bishops diligently ascertain whether patronage has been acquired or is to be acquired "either through an increase in the endowment, or through a new constitution, or through some other similar cause."

WHAT IS OBJECTED TO. It has been observed that the petition for patronage appears entirely singular. The petitioner recalls the merits of his family, which long ago founded and endowed a collegiate church, restored the church, and repeatedly increased its resources; from which it undoubtedly follows that patronage, both over the church and over the collegiate, would rightfully belong to them. He recalls the usurpation of their property, carried out by force by the government, against his will; from which it follows that the petitioner would not have lost his right, even though the property was usurped. Nevertheless, he requests the concession of patronage, as if this right were not his, indeed, implicitly confessing that neither he nor his family had ever been adorned with the honor of patronage due

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to their previous outstanding merits.

But it is truly a remarkable thing that a powerful and noble family, the feudal lords of the place, have so generously contributed their resources to the church and the chapter, that they never sought to recover anything from it, no honor, no prominence, no right whatsoever, but rather, freely, so that they never concerned themselves with patronage, and left the church entirely free. And it is even more remarkable if one considers that such a family, for so many centuries, has been either ignorant of, or forgetful of, or negligent about its rights, and now, after their property has been usurped, and the church is almost despoiled, has awakened, and through someone who claims to be the heir of the entire family's rights, is seeking that very right, which their ancestors, although generous with their property, were not concerned about.

However, whatever the case may be regarding the passage of time, since the petitioner insists only on new titles for the repair of the church and the appropriate increase of the parish endowment, it seemed necessary to inquire whether the repair of the church and the increase of the beneficial endowment are sufficient to acquire patronage by right. And regarding this, it is not certain that these two things are sufficient for this purpose; indeed,

[*Latin ed. p. 69*]

PACTEN. 69. To maintain what has been handed down by the Doctors would be entirely correct. Indeed, Ferraris states explicitly in *luspatr.*, art. 1, n. 24: "If the Church has not been completely destroyed, but only in part, the right of patronage is not acquired through its restoration or repair." And similarly, "He who does not provide a sufficient dowry is not considered a patron, but only a benefactor of the Church, as the Holy See declared in *Garciam De benef.*, p. 5, cap. 9, n. 51, with these words: 'He who provides an insufficient endowment, which the Bishop judges to be so, does not acquire the right of patronage, but is considered a benefactor.'" Ferraris, ibid., n. 26. Therefore, D'Annibale, in *Sum. th. mor.*, vol. 3, n. 27, note 23, citing the authority of Garcia, briefly summarizes the matter as follows: "The right of patronage... is acquired by the very foundation itself... and not by the supplementation of the dowry." And this is rightly so, because benefits and churches should not be withdrawn from the free administration of the Bishops and subjected to patrons, unless for a full and legal reason, nor for any other reason, but only for very important merits. The reason is found in the beginning of chapter 9 of the 25th session of the Council of Trent, namely, "because, just as it is not right to abolish legitimate rights of patronage, and to violate the pious intentions of the faithful in their institution, so also it is not permissible that ecclesiastical benefices be reduced to servitude, which is done impudently by many, under this pretext." Therefore, there are also some grave Doctors who maintain that three things are necessary to acquire the right of patronage by law:

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the endowment, the building, and the land. Thus, for example, Pitonius states in *alleg.S4 De contr.patron*, n. 24: "To acquire the right of patronage, three causes must concur cumulatively, namely, the foundation, the construction, and the endowment, as Fagnanus explicitly affirmed in *cap. Quoniam de iurepatr.*, n. 26 and following, Pignatell. *Consult.*, 82, n. 82 and following, vol. 9, etc." And this seems to be a reasonable position to maintain, unless in a case where none of these titles is sufficient by itself to constitute a Church.

[*Latin ed. p. 70*]

70. CONCERNED WITH: Whether the establishment of a church or benefice requires the concurrence of all parties involved in order to effect its constitution. Whether an increase in the endowment, and a certain repair of the church, can constitute a just reason for granting, as if by privilege, the right of patronage. This matter does not require lengthy discussion, and is measured by particular circumstances. Furthermore, whether the supplement to the endowment, promised in the books of 150, was, after the first presentation by the Archpriest, neglected. His Eminence and Lordships should consider this carefully. The Council of Trent, Session 14, chapter 12, on reform, taught with these words: "No one, of any ecclesiastical or secular dignity, can obtain, or should obtain, the right of patronage, unless he has newly founded and built a church, benefice, or chaplaincy, or has adequately endowed a church already erected, but which lacks a sufficient endowment, from his own and patrimonial goods." With these and other premises established, the following doubt was to be resolved: Whether and in what manner the granting of patronage is permissible in this case.

RESOLUTION. The Sacred Congregation, after deliberation on April 2, 1887, decided to respond: Regarding the church, affirmatively, with the words "cum SSmo."

FROM WHICH IT MAY BE GATHERED:

I. That, by law and by the constant discipline of the Church, benefices cannot be withdrawn from the free administration of the Apostolic See and the Bishops, unless there is a full and legal reason; or merits of greater importance.

II. That, as Session 25, chapter 9 of the Council of Trent states: "Just as it is not right to abolish legitimate rights of patronage... so also it is not permissible to... reduce ecclesiastical benefices to servitude..."

III. Therefore, it is the opinion of many Doctors that three things are

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necessary to acquire patronage: namely, the endowment.

[*Latin ed. p. 71*]

SECTION 71. The foundation, edification, and endowment; or, it is required that three causes concur for the foundation, construction, and endowment. IV. However, there are those who maintain that one alone of these three causes is sufficient to grant, or recognize, patronage. This is derived from the Council of Trent, Session 25, Chapter 9, concerning reforms, which states: "either through the increase of the endowment, or through a new constitution, or another similar cause." V. The privilege of granting patronage, which the Council of Trent, Session 25, Chapter 9, took away from the Bishops, now belongs to the Apostolic See; which usually grants it only under a burdensome title; that is, through generosity exercised or to be exercised for the Church. VI. Generosity exercised for the Church has been considered by certain Fathers to be such a significant factor that the Apostolic See has granted the apostolic privilege of patronage in a parish church.

PARISIAN MARRIAGES. April 2, 1887. Session 25, Chapter 9, Concerning Matrimonial Reforms.

SUMMARY OF THE CASE. Blanca Paulina Débonnaire de Gif "was married on February 24, 1881, in the parish church of Saint Clotilde, to Comte de Sampigny d'Issoncourt, a young man devoted to his studies, whom she had met shortly before in a social gathering. Blanca was then 22 years old. After the marriage, what was the mutual course of their life together? The woman describes it as follows: 'Never after that time did he grant me the rights of a wife, because not only did he fail to fulfill, but he did not even care to fulfill, the obligations of a husband. Thus, gradually, the woman's love for her husband diminished, and finally, in the autumn of 1885, she left him, alleging as a reason that she was being driven to it by the man himself, since he could no longer tolerate the woman's presence.'"

[*Latin ed. p. 72*]

72. PARIS. Having therefore been received by her mother, Blanca, the woman signified to the man her intention of separating from him. The man, having this document, went to the civil courts for a civil divorce; while the woman, with greater prudence, appealed to the Holy See, requesting the dissolution of a marriage that had been validly contracted but not consummated. The Holy See responded to the Paris court, instructing that the proceedings be carried out in this case, observing the proper form according to the Constitution *Benedictinae Dei Miseratione*; which was promptly carried out. The matter was heard with diligence; the man also appeared; and both were questioned separately. The man admitted that the marriage had not been consummated, but attributed this to the fact that the woman had been averse to him. Finally, a physical examination

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of the woman was deemed necessary, which was carried out on June 10, 1885, in a women's hospital, by two physicians appointed by the court, in the presence of a nun, acting as a respectable matron, and by order of the court; and after three hours and fifteen minutes of a warm bath. The two physicians, after conducting the examination, immediately and separately submitted their written judgments to the court; however, they could not immediately issue their verdict due to the serious illness of the President of the court. Nevertheless, after they were heard, and after a formal examination several months later, and as it is noteworthy, as they affirmed in the written document, the woman was still entirely intact, and the marriage had not been consummated in any way. A summary of the argument: This petitioner maintains that, in order to obtain a dispensation from a valid but unconsummated marriage, two things are necessary: namely, the lack of consummation of the marriage, and a just cause, as stated by Schmalzgrueber, part 4, title 16, n. 50; Ursaja, *Disceptationes Ecclesiasticae*, volume 2, part 1, discourse 3; and De Luca, *De Matrimonio*, discourse 9, n. 7. Her petition is comprised of two parts. DEFENSE OF THE WOMAN.

[*Latin ed. p. 73*]

PARISIAN. 73 And concerning the matter of consummation, he states that it is manifestly proven to have not occurred through the sworn testimony of the spouses, the testimony of seven witnesses, and the physical examination of the woman, according to the well-known instructions of the Sacred Congregation of the Council, dated August 22, 1840. Furthermore, both spouses, before the judge, swore that they had never consummated the marriage carnally; and the advocate endeavored to prove, by numerous reasons, that there was absolutely no collusion or fraud between them: 1. because, although the depositions of both agree on the essential points, they differ considerably in declaring the lack of consummation, namely, in the reasons given for this lack: while the woman affirms that consummation did not follow due to a discrepancy in character, differences in opinion, and antipathy, the man, on the other hand, cites the woman's physical condition, namely, a common ailment known as eczema, tooth decay, and difficulty in breathing. 2. This is also evident, he argues, because, even if the noblewoman had discovered the husband's aversion after the marriage, she nevertheless endured everything with remarkable patience, hoping that, with the passage of time, the husband would return to better intentions; and she did not present a petition to the Holy See until the husband had instituted a cause for divorce before the Civil Tribunal. 3. Finally, he stated, if any collusion had taken place, it could not have been explained, because they abstained from requesting a dispensation for four and a half years, when they could have completed it sooner, in order to end their mutually burdensome life together and proceed to other vows. The advocate affirms that full credence should be given to the statements

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and testimonies of the spouses, and especially to those of the Countess of Sampigny, based on the testimony of the parish priest of Saint Clothilde and the first vicar of Saint Mary of the Batignolles. Moreover, there are witnesses to support the honesty, piety, and sincerity of the Count Ignatius, such as the Marquis de Brion and Doctor Segan, who testified to this sincerity concerning Karlova. Similar testimony is provided by Henry Subourin and his wife, who are devoted to the family of the Count of Sampigny and were questioned by both sides. Therefore, the advocate concludes, full faith should be given to the sworn depositions of the spouses.

[*Latin ed. p. 74*]

74. To the inhabitants, justice must be rendered, and all suspicion of collusion must vanish. Afterward, acting as a witness to the seventh witness, he stated that those who number twenty-eight had never convinced him that the marriage, of which they were speaking, had been consummated. Indeed, the Reverend Vicar-Parish Priest of Saint Mary of Batignolles testified to this, and he himself, at a time free from suspicion, learned this from the account of the bride's mother. Furthermore, the Lady of Gif explicitly affirmed this. No less, the witnesses summoned by the man are found to agree in believing in the lack of consummation of the marriage. For instance, Enricus Subourin, a servant of the house of Sampigny, testified to the same thing. Also, Marchio de Brion, nephew of Count Ignatius, recounts that he had heard, long before the petition for dispensation from Ignatius, both verbally and in writing, that he could not love his wife and could not fulfill his conjugal duties to her due to several defects in her body. The same, among other witnesses, testified Doctor Segand, the family physician of Sampigny, stating that the Count had told him several times that the marriage with Blanca had not been consummated, relating the reason for this. As to how much weight should be given to the sworn testimony of the seventh witness, the advocate proves it by the authority of Coscius, *De separatione*, book 3, chapter 2, number 136; and *Turrecremata* in Canon Law, requisiti 2, cause 33, question 1, number 4. However, the advocate argues that this cannot be opposed in the present case, as Coscius himself states in the cited passage, numbers 143 and 147, that the sworn confession of the spouses and the testimony of the seventh witness must be considered lightly, if not only is there certain cohabitation between the spouses, but the most certain cohabitation in the same bed; indeed, the advocate argues, although cohabitation took place for four years and more between Ignatius and Blanca, there was never true cohabitation; for from the testimony of the actress, it results that they were together in the same room for only two hours; therefore, if they are to be said to have consummated the marriage, they would have done so only on that occasion, while at other times, either before or after that event, they slept in separate

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beds and ate separately.

[*Latin ed. p. 75*]

PARIS. Seventy-five times he has always lain down. But this could not have happened, as the advocate demonstrates, because Ignatius, even before the marriage, was such that he would snatch away treatises, and when approaching the marriage, he presented himself with such sadness and coldness of spirit, that to the guests it seemed rather that a funeral was being held, than that the solemnities of marriage were being celebrated. Furthermore, the advocate said, that after the marriage began, the husband immediately perceived, by signs seen around the bride's neck, that she was suffering from a skin disease; and this occurred, so that at that time, during the nuptial journey, he never approached her. And when, after returning, he approached his wife with the intention of consummating the marriage, seeing her body covered with the disease of Eczema, her teeth infected with caries, and a foul odor emanating from her mouth, he was seized with horror, and, under the pretext of needing rest, he departed from her, and resolved to abstain from her altogether. And that the aforementioned woman suffered from these infirmities, the advocate says, is sufficiently proven by judicial depositions. Dupouy de Bonnegard, who frequently visited the couple's home out of friendship, and who was called as a witness by the actress, testified that the Count de Sampigny had said that his wife was afflicted with such poor health that she could not fulfill the conjugal act, and that she had often complained of her husband's reluctance to perform his duty, even after repeated requests. This is fully demonstrated by the physicians who were appointed by the court of Paris; and although, the advocate adds, some doctors deny the contagious nature of the disease of Eczema, there are others, such as Biett and Baume, as cited by Grissolle, who affirm it. All of these things the Count de Sampigny, raised in the cares of a refined life, could have known perfectly well. But even if it were conceded, the advocate said, that such a disease did not present such a character to Blanche, it could still have aroused great repugnance in the husband, considering her delicate nature; and this relative repugnance, as stated by Sánchez in book 9, section 24, paragraph 21, is considered sufficient to deter a spouse from fulfilling their marital duties. From all of this, it is clear that, neither in that space of two hours, in which the spouses were together in the same room,

[*Latin ed. p. 76*]

76. The Parisian asserted that the marriage had not been consummated, especially considering the discord and quarrels that, after the discovery of the illness, had troubled the domestic household. Finally, to provide the fullest proof of the lack of consummation, the advocate presented an examination of the woman's body, which, after the procedures outlined in

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the cited instructions of the Sacred Congregation, was conducted by two expert physicians, one a doctor and the other a surgeon, in the presence of a senior matron; who, in a conforming report, affirmed the woman's integrity. Continuing with the second point of his argument, the advocate, setting aside the fact that, for granting a dispensation, a private reason is sufficient when the other party does not oppose the requested dispensation, as stated by Pignatelli, *Consilia*, 148, book 1, number 7; Coscia, *De Separationibus*, book 1, chapter 16, number 297, and as held by Fagnanus, Diana Veteranorum, Sánchez, and others, asserted that there were very serious reasons for granting a dispensation in this case; and among those reasons cited by the canonists, aversion of the soul holds the most prominent place. For this reason, Alexander VII and Innocent X granted dispensations even to common people, as testified by Burgasius, *De Irregularitatibus*, page 6, title *De Sponsis*, number 74; Coscia, *De Separationibus*, book 1, chapter 16, number 256; and Pignatelli, *Consilia*, 148, book 1, number 9. This aversion of the soul, stemming from the woman's physical condition, truly exists in this case, as can be sufficiently and abundantly demonstrated from the procedural records, the advocate stated. For this aversion is clearly evident from the fact that the husband continuously and always denied the wife the marital act, showed no affection towards her, and forced her to leave the marital home. As a result of this, the wife even sent a messenger to the husband. Another just cause for a dispensation is expressed by Sánchez, book 2, dispensation 16, number 2: "When, that is to say, the husband seeks to repel his wife with all his efforts, without any probable hope of sanity; and when he fears that greater scandals will follow, due to the enmities that exist between them and their relatives." This cause, the advocate argued, is present in this case, as evidenced by the witnesses presented. Furthermore, for this reason, the Popes have granted dispensations from a valid marriage.

[*Latin ed. p. 77*]

PARIS. The advocate stated that, according to the common opinion of the Reverend Fathers, and according to the acts of the Sacred Ordinary Court, as in the case of the marriage in Cuba on April 26, 1788; in the Dispensation of Melevitana, 1789; in the Dispensation for marriage of April 26, 1844, and others. The third reason is that there is no hope of reconciliation. Indeed, both spouses persist in the will to dissolve the marriage. To this, it must be added that the spouses are already separated by a civil divorce, pronounced on August 12, 1886. Finally, the advocate stated that the greatest good to be achieved in this case is the salvation of souls; for the woman is still in the prime of her life, at twenty-seven years of age, and she has sincerely expressed a strong desire to have children; nor can she await the death of her husband, who is thirty-nine years old and of sound health. Therefore, either a dispensation should be granted to her, or she should be

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allowed to continue living in a state of incontinence, with the manifest risk of eternal salvation. In addition to this, the advocate concluded, the client is an orphan, having no other relatives except her widowed mother, who is of advanced age, so that she is deprived of assistance for living.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. When the husband petitioned for a divorce before the civil tribunals, the woman requested a dispensation from the valid, though unconsummated, marriage, presenting medical testimonies; but, the Defender stated, if these testimonies are heard, the woman remains as pure as Minerva; yet, the medical testimonies are tainted with grave flaws. I overlook the circumstances of the place where the woman's body was examined, since the judge, the defender of the marriage, and the clerk were present there, and it was not without scandal that they accessed the home of the honest woman. However, I do not overlook the considerable interval of time that elapsed between the examination of the body and the examination of the witnesses: namely, the examination was conducted five months after the examination; when, indeed, the memory of the most minute observations had faded; and from this, the medical testimonies derive their force.

[*Latin ed. p. 78*]

78. PARISIAN. But greater matters are at hand: for while the Instruction of the Sacred Congregation of Councils of the year 1840, §. Procedendum et seq., cautions that at least three midwives should be appointed, and instructed by at least two experts; the midwives are entirely absent. Their presence is deemed necessary not only for the sake of modesty, but also for a more thorough investigation; because the midwives can examine the parties more closely than the experts. It is not permissible to diminish the importance of such solemnities; for Paul Rubeus writes in his notes, ad decis. 392, n. 27: "When it is a question of the dissolution of marriage, which is a great sacrament, all diligence and caution must be employed, so that, as far as human frailty allows, all fraud and error may be excluded." This warning finds its rightful place in this matter, because the alleged lack of consummation does not seem probable. For who would easily believe that young people, in the prime of health, having lived under the same roof for almost five years, would never have yielded to the marital impulse? Rather, it would be more surprising that two female servants, as witnesses brought forward, have stated that they never observed any unusual behavior between the couple, nor had any reason to suspect anything. The testimony of these witnesses is to be held in high regard, because they are entirely consistent in their statements, and do not appear to be ungrateful for the favors they have received from the couple. On the contrary, the testimony of other witnesses, who state that they did not see anything, is of no value. Then, the accuser states, the main cause of the alleged lack of consummation was the disease of eczema, with which the woman was afflicted in

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her body, and from which, according to the doctor, she had already been cured. However, according to the doctor's opinion, this disease could not have prevented the consummation of the marriage. But then, the cause was antipathy. But surely, there must have been conversations, familiarity, intimacy? But someone might say: the antipathy arose after the woman's eczema was discovered. However, the accuser states, if ever true accounts are given by the spouses and witnesses who swear by their words, of this—

[*Latin ed. p. 79*]

PARIS. The disease was concealed from the man for seventeen days after the marriage. Then, the newlyweds had cohabited. But I ask, did the newlyweds, before the man noticed his wife's eczema and conceived an aversion, not find contentment in contemplating each other's faces for seventeen days? It is said that the woman was not abstemious; but the men allege impotence; and the woman stated that the man had abstained from the use of marriage so as not to tire her. But all of this lacks the appearance of credibility. And while the woman claims that the man was not content with this union from the very day of the marriage, the parish priest reported that he had spoken with the man before the marriage, who asserted that he desired such a marriage so that he might please both the woman's mother and the woman herself. Finally, the judge concluded that it is necessary to investigate the causes of the dispensation before determining whether there was consummation of the marriage. With these things in mind, the following question was proposed: Should one consult the Most Holy Congregation regarding a dispensation from a marriage that is valid but not consummated in this case?

RESOLUTION. The Sacred Congregation, having considered the matter under date of April 2, 1887, decided to respond: Affirmative.

REGISTRY OF SUBSIDIES. On April 2, 1887. Through summary petitions. Theresia Borg on March 19, 1853, received a nomination for a dowry subsidy of 180 pounds, founded by the priest Muscat. Also, Catherine Magro on April 30, 1883, was named to another matrimonial subsidy, established by the Mirabelli family for the sum of 1000 pounds.

SUMMARY OF FACTS.

[*Latin ed. p. 80*]

SO MELEVITANA. As both women have exceeded the age of seventy years, and suffer from infirmities and illnesses, they have neither hope nor desire of marriage; while, conversely, they are in great need of obtaining assistance. For they are poor, and are entirely incapable, both on account of their age and on account of their illnesses, of providing for themselves through manual labor. They therefore request that the dowry,

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which was promised to them, and which is being negligently kept by the administrative board, be granted to them, so that they may enjoy it in their unmarried state. The administrator of the diocese transmits these requests, and strongly commends them, adding, however, the condition that one-third of these dowries be ceded to the nuns of the Third Order of St. Francis, who are highly esteemed for their work in both the civil and religious institutions for poor girls in the diocese. Indeed, he even requested that one-third of all the dowries, which have been abandoned, be ceded to the aforementioned nuns, who are lacking in all temporal provisions.

SYNOPTIC DISCUSSION. But the dowry, which has been left for the time of marriage, and is therefore entirely uncertain in its nature, always remains conditional. *Rota decis. 211 n. 5 part. 18 tom. 1 Recent.* It is only after the marriage that it is certain that the dowry is due; for in law, only a dowry left under a condition can be claimed, when it has been established that the condition was most firmly fulfilled by the legatee. *Amostazo De caus. piis lib. 4 cap. 6 num. 12, Mantica De coniect. lib. 11 tit. 18 num. 18, Rota decis. 211 num. 2 part. 18 tom. 1 Recent.* And therefore, in granting a favorable hearing to the requests of the two women, one would be granting something contrary to the will of the testator, and furthermore, the assistance, which would be provided sooner rather than later, and which, although it lies idly in the treasury of the administration today, would finally be applied to its intended purpose, rather than being diverted to other uses; which is only permissible for a grave and just cause.

Whether THE REQUESTS SHOULD BE REJECTED.

[*Latin ed. p. 81*]

81. Concerning the matter of piety and charity towards infirm old people, it was indicated that the E.E.P.P. [Most Reverend Fathers] had left instructions. It was noted that, for example, on September 17, 1839, through a previously granted grace, a dowry was granted to a woman in the unmarried state, since the petitioner (who was a relative of the founder) was poor and had exceeded the age of 25. Regarding the request of the Bishop, that in such cases, as well as in similar ones, whenever dowries are granted to unmarried women, a certain proportional part be reserved for the pious institution of the Tertiary Order, doubts arise from time to time. On the one hand, it would seem to inflict a more serious wound upon the will of the founders: for assistance for marriage is first granted to unmarried women, specifically those who are pregnant and who have some hypothetical right to it, but who are truly still excluded from its possession; then, the same assistance is, at least in part, reserved for some educational institution, namely, one to which no right, neither direct nor conditional, pertains. In this, therefore, a double injury would be found, first to the intention of the founders, and this is the most serious, and secondly, to pregnant women, and this is no less important. PRAYERS ARE TO BE

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OFFERED. On the other hand, since any pregnant women, although they may be pregnant, have no positive right to a dowry before the celebration of marriage, if anything is granted to them, it is entirely a matter of grace, and proceeds from the benevolence of the Apostolic See. Therefore, just as the Holy See can absolutely deny this grace, so too it can admit it only in part. Furthermore, the diversion of a smaller portion of the funds to the institution for girls, while it would bring great benefit to that institution, would cause a slight damage to the purpose and administration of the donors. Moreover, it would eminently appear that the will of the testator is being fulfilled. For, by providing these marital funds, he looked to the morality of the girls, and to their and the religion's benefit; but all these good things flourish through Christian education in the minds of the girls. Ada, Vol. XX, cap. CCXXX, 6.

[*Latin ed. p. 82*]

82. MELEVITANA. Having noted these matters, the question arose as to what should be answered concerning prayers. RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter, on April 2, 1887, decided to respond: "With the consent of the administrators, a dispensation has been granted regarding half of the dowry, by verbal agreement with the Most Reverend of VARSAVIA, regarding the matter of MARRIAGE. On May 14, 1887, Session 24, Chapter 1, Concerning Reforms of Matrimony." COMPENDIUM OF THE FACTS. On June 5, 1881, in the parochial church of Okuniew, in the Warsaw deanery, Antonina Rudnika, a girl of seventeen years, and Johannes Dylewski, a Warsaw physician of twenty-five years, were married. However, they were not happy in their common life; and the cause of this, the spouses themselves primarily attribute to the impossibility, which occurred, of consummating the marriage. Therefore, the first love quickly failed, and neglect and mutual aversion soon followed; and finally, in the month of July of the year 1883, Antonina, with the consent of her husband, left the conjugal home and went to live with her mother. After a few months, the woman, following the advice of some, went to the Warsaw ecclesiastical court, challenging the marriage on the grounds of nullity, due to the husband's impotence, at least relative. However, the Archbishop preferred first to act through the parish priest of the spouses, in order to restore them to mutual harmony; but since this prudent counsel failed, and the woman, especially, and indeed for serious reasons, opposed it, then a trial was instituted. The woman was heard, and her testimony was taken; the husband was also questioned, but no witnesses were presented on his behalf. The witnesses of the woman, with the exception of her father-in-law, declare that they are ignorant of the cause of the separation of the spouses, or they attribute the discord to

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causes that arose.

[*Latin ed. p. 83*]

WARSAW. g3 Nevertheless, all commend the actress's religion, piety, and truthfulness. Immediately thereafter, a physical examination of the woman was conducted by three midwives, with a matron present, and the opinion of two physicians was also sought; and all, without hesitation, declared that the woman's body was sound and that the marriage had not been consummated. However, when the man was examined by three physicians at the order of the tribunal, no impotence was apparent; indeed, the experts judged that he was perfectly capable of fulfilling his marital duties, and if he nevertheless did not consummate the marriage with Antonina, it should be attributed either to a relative impotence, or to his nervousness. Therefore, after all investigations, the court, on April 17, 1886, rejected the actress's request for the annulment of the marriage on the grounds of the husband's impotence, although it readily acknowledged and admitted that the marriage had not yet been consummated; it considered that this was due either to the nervous temperament of the spouses, or to a mutual aversion, or to some similar cause, and not to impotence. The woman, though saddened but not defeated, then conceived a new plan, and approached the Most Holy Father to expose her miserable condition, and to humbly implore a dispensation from the marriage, which was valid but not consummated, for the reason, if not of a lesser, at least of mutual discord and aversion. These prayers were earnestly commended by the Archbishop. Synopsis of the Debate. The advocate who undertook to defend the woman's cause argued that, although, from the state of affairs and from the woman's request, the way to impugn the marriage on the grounds of the husband's, at least relative, impotence was closed to him, at least a dispensation should be granted, not only on the grounds of grace, but also for very serious and urgent reasons, and almost on the grounds of justice. And his argument comprised two points: first, he sought to prove that there was no consummation in this case. DEFENSE OF THE WOMAN.

[*Latin ed. p. 84*]

VARSOVIA. [The petitioner] states that she has resided there; and she presents sufficient and weighty reasons to warrant the granting of the requested dispensation. Regarding the first point, she observes, above all, that the woman's testimony has always held considerable weight according to the teaching of the canons, as stated in chapter "Proposuisti Nobis de Probat." The text in chapter 29, question 2, canon 1, and chapter "De despons. Impub.," as previously mentioned, affirms that the Roman Pontiff, under the Constitution of Innocent XII, has declared the nullity of marriage when consummation has not followed, and that dispensations have been granted in the penitential forum, as testified by Corrado in "Praxi disp.," book 6,

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chapter 7, number 21, entirely excluding any physical examination. Indeed, even in contentious cases, Spondenus, in "Annal. Ecclesiast.," in the year 1599, teaches that the marital bond can sometimes be relaxed based solely on the woman's testimony; and the decisions of the Sacred Congregation in "Frisingen," 1817, and in "Gandaven," 1820, provide clear examples of this. Furthermore, the woman testified in a written statement submitted to the court: "On one day, after the wedding, the husband approached to fulfill the marital duty; however, all of his attempts, although I willingly submitted, had no effect; these attempts were repeated almost daily for nearly a year, but in vain; they only exacerbated the affection between us and harmed our health." She affirmed, under oath, that the consummation of the marriage had not taken place "due to the enormous size of the husband's member, which prevented him from introducing it into my body; and when he tried to do so, I experienced unusual pains." As a result of this, the young woman became ill, and recovered only two months later. "The husband," she stated, "renewed his attempts, which were repeated often, as before, but the marital union was never once effectively completed: the semen never entered my body, but always flowed out." This sworn testimony of the woman is strongly corroborated by...

[*Latin ed. p. 85*]

WARSAW. Eighty-five men of his confession; he stated: "The legitimate consummation of marriage has been repeatedly impossible... I believe that the impediment hindering the consummation of our marriage is common to both parties, namely, that on my part, the genital member, with respect to the pudendal parts of the wife, is too large, while, on the contrary, the female member of the wife is too narrow." However, the advocate demonstrates that the actress is not at all to be accused of falsehood, and therefore not of perjury, through the testimony of witnesses; indeed, Angela Olszewska and Anna Skowzynska, both relatives of Antonia Dylewska, testify that she is a devout woman, a woman devoted to religion and of good morals, incapable of any falsehood, pious, virtuous, and honest, so much so that they maintain that everything she confessed and swore in her divorce case is true and genuine. Furthermore, proceeding with the physical examination, the advocate stated that it was properly conducted; for three midwives, two doctors, and a matron were selected, and they were given instructions by the judge, approved by him, to properly conduct the examination, and they observed them most religiously; the woman was kept in a bath of warm water for three hours; after each midwife examined the woman's body, in the presence of the matron, they immediately wrote down their reports and handed them to the judge; in short, everything was carried out perfectly, as prescribed by law. The observations of the midwives were entirely confirmed by the attached doctors. It is clear that full credence must be given to the assertions of the experts, because the

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experts are considered not so much as witnesses, but as judges, as stated by Cardinal De Luca in *De iudic.* 33, n. 20; and as the Abbot states in chapter *Proposuisti* 4, *De probat*, n. 3; and this, the advocate stated, is in accordance with the practice of the Sacred Congregation, by which similar controversies are usually resolved by the judgment of experts. Moreover, that the signs found by the midwives in the woman, and especially the integrity of the hymen, undoubtedly prove the argument of virginity, is according to the most accepted forensic medicine.

[*Latin ed. p. 86*]

86 WARSAW. The teaching of the authors demonstrates the importance of this matter. Thus, Zacchia, *Quaestiones Medicae Legales*, book 4, title 2, question 1, numbers 1 and following, states: "Many things are brought forward, with which, when present, there can be no doubt about the integrity of virginity; especially, it seems to be an infallible and inseparable sign, taken from the hymen itself..." Also, Bartholinius, *Institutiones Anatomicae*, book 1, chapter 81, states: "The hymen is called the virginal enclosure by others, also the flower of virginity, because when it is present, it is a sign of virginity." The same is reported by Taihmeyer, *Institutiones Medicae*, law, chapter 4, question 3; Barzellotti, *Questiones de Medica Legali*, volume 1, book 1, chapter 5, and many others. However, the speaker stated, if any question arises among physical doctors, it does not concern the presence of the hymen, for with it present, all proclaim the state of virginity with one voice, but rather the absence of the hymen itself; for they themselves say that it can be absent either naturally or because the hymen has been broken for various reasons, and yet the woman may nevertheless be said to be and to be in a state of perfect integrity.

Turning to the second part of his argument, he stated that, besides the ordinary causes for dispensation, there exists another very serious reason in this matter, namely, relative impotence on the part of the man; for as has been explained above, if either spouse has laid down this condition, experts in medicine, who were heard before the Warsaw Consistory, have concluded regarding the relative impotence of the man.

However, he affirmed that, even if this is probable, it should primarily be considered an argument for granting a dispensation; for in this case, rather than a proper dispensation, it is said to be an administration of prudential justice, as stated in Ursaya, volume 3, part 2, discussion 21, number 104, and De Luca, *De Matrimonio*, discussion 9, number 8. He derives the theological reason from the words of Cardinal Cossi, *De Separatorio*, book 3, chapter 2, pages 387 to 383, who states the rule that, in a doubt, one must stand for the value of marriage, in the question of a dispensation based on the head of impotence, because "the marriage itself is null..." and then,

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because it is a question of...

[*Latin ed. p. 87*]

WARSAW. Eighty-seven. By inferring prejudice and injury to the same sacrament, the rule proceeds directly in the opposite direction, namely that in doubt, one must stand for the exclusion of marriage, because it is more honorable to dissolve the marriage through canonical proofs and according to the discipline of the Church, than to provide, under the name and law of marriage, an opportunity for incontinence and to foster a continuous sin. To these things, since both the woman and the man have openly declared their desire to dissolve the marriage, and have submitted themselves to the inspection of bodies, there is already another reason to grant a dispensation, as canonists commonly teach. For, with the mutual consent of the spouses, and in the absence of another cause, the Pope can dissolve a valid marriage, as Cosci, cited, op. lib. 3 cap. 2 no. 95 and following, testifies. Furthermore, that discord and aversion of souls have existed in this marriage, the woman testifies, and the Archbishop himself, commending her prayers, recognized this, saying that there exists between the spouses "an excessive aversion of souls, and no hope of reconciliation." Indeed, the aversion of souls is a cause, and a grave one, for granting a dispensation, as the orator proves with the authority of several learned doctors, especially De Luca, cited, loc.; Sánchez De matrim, lib. 12 disp. 16 no. 3; Lancellotti, in Ursaya, vol. 3 par. 2 disc. 21 note 62; Corrad. in Praxi dispens, lib. 8 cap. 7 no. 33, who says: "This aversion of souls is one of the most important causes that make a dispensation just." Finally, the orator places the last reason for the dispensation in the imminent danger of incontinence of the spouses, according to Sánchez De matrim, disp. 15 no. 19; Fagnan, in cap. Verum, sub. no. 11 De convers. coniug.; Cardinal Cosci, loc. cit. lib. 1 cap. 16 no. 219. Moreover, in this very case, it is the Archbishop who earnestly urges the granting of the dispensation "because of the danger of incontinence, which greatly threatens the woman, as she is twenty-two years old and of sound health, and the man, as he is thirty years old." Finally, the orator recalls that his client, the woman,

[*Latin ed. p. 88*]

88. VARSAVIA. In this city, the civil authorities exert themselves to the extent of their power to ensure that Catholics are alienated from the Church of Rome; therefore, there is a probable fear that a pious young woman, disturbed in her celibacy, might flee to the ranks of the schismatics, and there, influenced by their persuasions, might contract a new marriage with evident danger to her faith.

OBSERVATIONS OF THE DEFENDER, OR ADVOCATE. On the other hand, the defender, acting in accordance with the duty of the sacrament, argues that neither is there a legal basis for the claim of consummation of

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the marriage, nor are there just grounds for a dispensation. Indeed, he says, the arguments presented thus far in favor of consummation, namely the testimony of the spouses, the testimony of a midwife, and finally, the judgment of a medical expert, are of little weight. For the testimony, although concordant and sworn by the spouses, is suspect, since it is given in their own self-interest and may be based on a false cause. Moreover, the wife says, we understand that there is an essential and incurable disproportion in the genitals, and the husband's confession confirms this. To admit this after the court's judgment would be absurd in law. Furthermore, and setting these things aside, the deposition of the spouses does not invalidate the value of the marriage; *Menoch. De arbitr. iudic, lib. 2 centur. 2 eas. 103 num. 8* – there: – "Even if both those who wish the marriage to be dissolved allege an impediment, their assertion would not be believed; thus, the Abbot, cap. 5, De eo qui cognovit consanguineam uxoris suae, num. 5, in fine." Schmalzgrueber also states, tit. 15, lib. 4, n. 69 and following – there: – "However, the judge must proceed with the utmost caution, according to the difficulty of the matter; he must not believe the assertions of either spouse alone..." The reason is that otherwise, the spouses might easily collude to avoid mutual cohabitation. Nor does the text in cap. Mulieri de iureiur. support this, where it is said: "It is to be presumed that those who flee to the authority of the Church constantly strive for truth, lest they be stained by the crime of perjury, avoiding sin." Since in that chapter, the Pontiff, notwithstanding the oath...

[*Latin ed. p. 89*]

WARSAW. Eighty-nine women, who asserted that the man had, through words, presently and matrimonially consented to the marriage, nevertheless permitted and consented to the man entering into other marriages. Furthermore, the testimony of seven witnesses is presented, which, contrary to the rules established by the Sacred Congregation on August 22, 1840, § Deinde. For, as is prescribed there, there are not fourteen, but only seven witnesses, and these were brought forth solely from the side of the plaintiff, not relatives, but strangers, not those who ought to be informed of the matter, such as the mother still living, such as the sister Hedwig, such as the relatives Andrzej and his wife Adulphus, such as the servants, but only those who would not know of the cause, nor of the canonical reason upon which the process is based. Moreover, there is the omission of witnesses from the side of the man. Wherefore, with so many and such defects, the testimony of seven witnesses is insufficient to create that certainty which is required in the present case. Therefore, the obstetric judgment does not hold. For the testimony of seven witnesses is required in such a way that, even if the woman is found to be a virgin by examination, it may not be concluded that the marriage is unconsummated; for, according to Sánchez, De Matrim., book 7, chapter 108, words, "often the eyes and hands are

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deceived in the examination, especially because women use many deceptions by which they appear to be virgins." Therefore, since the obstetric judgment is not accompanied by the testimony of seven witnesses, the argument derived from it does not prove the unconsummation of the marriage. But neither does it claim that there is a valid reason for a dispensation. For, it states, the reason of mutual consent, according to Sánchez, book 2, chapter 16, number 9 – there: – "The ultimate reason is mutual consent, but many doctors testify that this is not sufficient." Therefore, when one party requests a dispensation from a valid but unconsummated marriage, it must always be carefully considered whether a just reason for granting the dispensation exists. If this is lacking, neither is it lawful nor valid.

[*Latin ed. p. 90*]

90. VARSAVIEN. Dispensatio concedi potest, nonobstante consensu coniugum, dummodo, vice versa, si justa causa dispensationis sit praesens, repugnantia alterius coniugis parva pendat, sicut Sánchez, *op. cit.*, disp. 15, n. 7 docet. Nec alia causa, nimirum gravissimum dubium impotentiae viri, allegari potest. Quia, cum medici conantur hanc impotentiam adstruere, non nisi gratuitae hypotheses in medium proferunt; cum insuper triennale experimentum a iure requisitum in hoc casu deficit; neque constat ipsum biennale experimentum reapse et ex animo intercessisse. Minus tandem esse attendendam causam, quae tertio allegatur, scilicet maximam animorum aversionem. Quandoquidem Antonia testatur: "Cum marito meo vixi per biennium et mensem... cohabitatio nostra fuit concors et pacifica ex mutuo consensu et pacifice ad invicem digressi sumus." Haec autem et ea quae huic conformia a viro deponuntur, conciliari haud possunt cum illa animorum aversione, quae communiter a Reverendissimis requiritur, ut dispensationi locus adesse possit. Hisce praenotatis, propositum fuit diluendum dubium an consulendum sit Sanctissimo pro dispensatione a matrimonio rato et non consummato in casu.

RESOLUTIO. Sacra Congregatio Concilii, re cognita, sub die 14 Maii 1887 censuit respondere: Affirmative.

EX QUIBUS COLLIGES:

I. Ex doctrina canonum, mulieris iuramentum quod vir cum muliere coire nequiverit, tanti habitum esse, ut nullitas matrimonii declarata fuerit ob non sequutam consummationem.

II. In foro contentioso, aliquando relaxari vinculum matrimoniale ex iuramento mulieris, confirmato per testimonium septimae manus.

III. Inter causas dispensationis a matrimonio rato et non...

[*Latin ed. p. 91*]

WARSAW. 91. The Canonists also report the impotence of a man, relative,

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and even probable, being joined with the integrity of a woman. IV. On the subject of the impotence of a man, at least a relative impotence, having been proven by the integrity of a woman, and by the judgment of experts, to whom the greatest deference must be given.

PESARO. FUNERAL. On May 14, 1887. Session 25, chapter 13, concerning reforms. SUMMARY OF THE CASE. In order to resolve several controversies that frequently arose, especially during funerals, between the chapter of the cathedral church of Pesaro and the urban parish priests, a solemn agreement was initiated on May 4, 1707. In this agreement, two categories of foreigners were distinguished: one, those who, arriving in Pesaro, did not stay there for any length of time; and the other, those who were compelled to remain there, either by reason of their office or for some other cause. Regarding the first group, the right of a church funeral was granted to the cathedral church; regarding the second group, it was granted to the parish priests in whose parishes they resided. Meanwhile, in the year 1824, a hospital, named after Saint Benedict, was established in Pesaro, within the parish of Saints Cassian and Heraclius, for the care of the mentally ill. And thus, a new occasion for controversy arose, which had been silent for some time: indeed, the parish priest of Saints Cassian and Heraclius vehemently insisted that he alone should be responsible for the funerals, while, on the contrary, the chapter of the cathedral church and other urban parish priests opposed this. The parish priest of Saint Cassian first appealed to the Bishop, claiming that the chapter was extending its rights too much and encroaching on parochial rights, abusing the agreement of 1707; then, on August 1, 1882, he brought the matter before the Sacred Congregation.

[*Latin ed. p. 92*]

92. PISAUREN. He rushed, while praying and concluding: Therefore, in order to defend the rights of my parish, I beseech Your Holiness to deign to resolve whether it pertains to the aforementioned parish priest to have the right to bury and inter those who die in the aforementioned asylum, but also all foreigners who should die within the limits of that parish, except in the case of those who are merely passing through. The advocates of the opposing party were then called upon to argue the case: if the matters in dispute did not agree, a formula of doubt had to be prepared, according to the introductory document of the lawsuit, in this manner: I. Does the parish priest of St. Cassian have the right to bury and inter foreigners who are mentally ill and die in the asylum? II. Does the same parish priest have the right to bury and inter all foreigners who die within the limits of his parish, where there is no designated burial place, except only for those who are merely passing through, in that case? But when the chapter learned of the matter, immediately, after a meeting, the Sacred Ordinary declared that, regarding the first question, concerning the funerals of the mentally ill, it was no longer possible to raise the issue today; because with respect to

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that matter, there had been an agreement between the parties and accepted for two years now, that the parish priest of St. Cassian should bury all mentally ill foreigners: while citizens were to be buried by their own parish priest. It should nevertheless be noted that, although by this declaration, the first question has been settled, the advocate of the parish priest argued equally on both questions, and the arguments were often mixed for both points. A Synopsis of the RIGHTS OF THE PARISH PRIEST. The advocate of this party first stated something about the nullity of the agreement of the year 1707, which he considered for two main reasons. And first, because a transaction cannot exist unless it is burdensome on both sides, according to L. 38 of the Code of Civil Law, as stated in Voet, Book 2, Title 25, number 1, in relation to the Pandects.

[*Latin ed. p. 93*]

PESARO. 93. This agreement, however, imposed a burden only on part of the parishes: namely, it is certain that travelers belong to the parish in which they die, unless they can be conveniently and safely transported to the tomb of their ancestors or to their own parish. Thus, Schmalzgrueber, part 3, title on burials, no. 41; Pirhing, book 3, title 28 on burials, no. 8; Reiffenstuel, book 3, title 28 on burials; also, chapter on those who are buried, 3, title 6. And this is justly so, for, as Reiffenstuel rightly notes in the aforementioned passage, the pastor has a right founded on law, both because he administers the sacraments to strangers, as argued in the chapter on the celebration of Mass, and because he has jurisdiction over all those who are within the boundaries of his parish; Abbot, no. 4, and as argued in Pastoralis, 9, on matters done by prelates. Furthermore, the pastors of Pesaro have transferred their rights over strangers and pilgrims, and indeed over many others, such as officials and servants of legates, to the chapter. However, the chapter granted nothing to the pastors, but merely recognized that which strictly belonged to them by law, namely, the right to bury the faithful, as if they were domiciled within their parishes. From this, it is clear that the aforementioned agreement did not proceed favorably from the part of the chapter, and therefore is null. Indeed, the patron asserts that the chapter, sensing this nullity, itself dissolved this agreement and arranged for another to be made. Turning to a second cause of nullity, the patron states that ecclesiastical transactions between ecclesiastical persons do not bind their successors unless they have been confirmed by the Supreme Pontiff, and indeed, it is required that such a transaction not be confirmed in a general form, but specifically, with full knowledge, and with an understanding of the cause; thus, Pignatellius, volume 4, consultation 28, no. 9, and S. C. Conc. in Volterra, April 23, 1864. Furthermore, it is asserted that the aforementioned agreement was concluded by the authority of a single bishop; which is by no means sufficient. Elsewhere, the patron notes that the chapter cannot appeal to the passage of time and prescription

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to uphold the aforementioned agreement, because time is not a mode.

[*Latin ed. p. 94*]

91. Of the inhabitants of PISAURUM. Regarding the establishment or payment of obligations, because parochial rights cannot be subject to prescription, and finally, because the transaction concerning the matter was inherently flawed from the beginning; S. O. O. in Lünen. Sarzanen. March 18, 1820. With these premises, the patron argued further concerning the burials of the insane, those who, due to a lack of will, are comparable to orphans and children, who reside or have a quasi-residence in the place, according to the will of their guardian or curators: therefore, since the insane are sent to PISAURUM by their curators for a prolonged period, for the care of a difficult and perhaps incurable illness, they certainly acquire a domicile and a proper parish in the place where they reside; and they cannot, in any way, be considered as mere travelers or pilgrims. Having noted this in passing, we come to the matters that concern the controversy, namely, the burials of those who come to PISAURUM, not merely passing through, but who remain there for several days. The advocate argues that he should be responsible for these, whenever they die in his parish. And in favor of this, the patron observes that such visitors can be equated with those who move to a rural estate for the purpose of recreation, whom, as stated in chapter 3, concerning burials, it is commanded to be buried in the place of death, provided that they cannot be transported to their own parish or to a place of chosen burial without danger. See Reiffenstuel, book 3, title 28, concerning burials, number 26, as well as the Rota in Ästen, concerning funerals before the Captara; and the S. C. EE. and R R. in Fulginaten, July 5, 1592; and the S. R. R. in Romana, concerning the laws of burial, February 20, 1702, § 1, before Friólo. Then, the patron proceeding to the difficulty, which can be raised from the fact that the cathedral church is considered, in law, as a universal parish of the entire city, recalling the origin of parishes, and citing the authority of Pope Dionysius, who in canon 1, question 1, of the Ecclesias, ordered that individual parishes be assigned to individual priests, so that one would not enter the territory of the other, or infringe upon its rights, without mentioning any specific right or...

[*Latin ed. p. 95*]

PISAUREN. Concerning the 95th privilege pertaining to cathedrals. However, he states that the rights of the parish priests were not diminished over time, but rather increased, as is evident in chapter 1 concerning burials, and in the Tridentine Council, session 24, chapter 13, concerning reforms. Furthermore, if those who are dying receive the sacraments from the parish priest in the place where they die, all the more should they be buried by him, according to the resolution of the Rota, decided before Seraphino, number 1135. However, with regard to those who are merely

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passing through, the opinion of the Doctors is not unanimous. Therefore, the Patron concludes his defense by granting the cathedral the right to bury those who are passing through. RIGHTS OF THE CHAPTER. On the other hand, the Patron, defending the chapter, recounts the history of the origin of the controversy, recalling from ancient times that it was customary to bury strangers in the cathedral. However, it sometimes happened that there was disagreement between the parish priests and the chapter regarding whether certain strangers and travelers belonged to the cathedral, whether they were those who were merely passing through for a short time, or even those who remained for a longer period. To resolve these doubts, an agreement or transaction was initiated in the year 1707, in which it was agreed that all travelers and pilgrims who entered the city, whether by way of transit, journey, or for business, etc., should be buried in the cathedral, until they died; but those who rented a house in the city, if they should die, would receive the customary rites in the parish of the place. And from that time until the present, no rivalry or dispute has disturbed the peace. However, in recent years, about 20 years ago, the aforementioned Father Cassian, now a priest named Carletti, began to stir up trouble again. For he publicly and privately accused the chapter before the Bishop, and often used uncivil and even insulting words, and was not always consistent in his opinions, until he brought the matter to the Holy See through a petition, which is already on file. Then, the Patron continues, in order to avoid being drawn into expensive lawsuits over minor differences in rights, the chapter...

[*Latin ed. p. 96*]

96. PISAUREN. Ut res componerentur post deliberationes habitae. Primum, parocho Sancti Cassiani indicavit se quolibet iure posse abdicare, ad pacem, hos qui adveniebant et dementes erant. Hoc gestum Carietti reprehendit, et ita reprehendit ut cum moderatore hospitii convenit, et die 30 Iunii 1885, ipse normas pro funebus dementium ibi morientium confecerat et signaverat, quae ab anno biennium et plus in plena executione manent. Hac controversia parte composita, ad aliam quoque dirimendam, capitulum magis diligentiam adhibuit; et quia omnes parochi civitatis interesse ad rem habebant, hos convocavit; sed placuit inter omnes, ut procuratores hinc inde nominarentur, ut juxta mandatum, ad tollenda dissidia agerent. Unus parochus, Carietti, a suis confratribus reprehensus, et cum negotiationibus iam incoeptis, se solutum declaravit. Nihilo tamen secius, ceteri parochi et capitulares in proposito suscipto perseveraverunt, et tandem die 20 Octobris 1886, in palatio episcopali coram Episcopo, conventionem definitivam signaverunt, in qua transactio anni 1707 in perpetuum confirmata est; nonnullis tantummodo interpretationibus additis, quod nempe omnes viatores et peregrini cessarent esse tales, quoties domum aut cubiculum conductum inhabitarent ultra 25 dies. In

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hoc casu, ius Cathedralis cederet iuri parochi localis. Praeterea, parochi civitatis voluerunt ut salva manerent iura propria super respectivos paroecianos qui in dementium hospitali clauderentur. Tum vero, parochus Carietti, ira in confratres parochos et omnes capitulares percitus, litteras amaritudine plenas dedit, nunc Episcopo, nunc capitulo, nunc parochis, et tandem, liten coram S. C. C. instaurari curavit. Quid tunc factum sit, et quomodo contestatio litis processerit, iam in specie satis enucleatum habetur. Quibus omnibus narratis, capituli patronus, quoad funera infelicium, in manicomio degentium, obiter observat, juxta ius commune, ex Pignatelli, tom. 7, consult. 7, per totum, Ferraris, v. Moniales, art. 4, num. 6, v. Sepultura, num. 241, aliisque, eos qui custodiae causa alicubi detinentur, vetus do-

[*Latin ed. p. 97*]

PISATJREÑ. 97. Quicumque non habent familiares, vel si habent, ut matrimonia vel funera eorum ad parochum loci in quo conservantur, sed ad parochum domicilii ipsius pertinere. Quoniam igitur in casibus dementiae, parochus sancti Cassiani nullum ius habet, hi iuxta communis iuris censuram ab ecclesia cathedrali inferendi essent. "Verumtamen cum non iure communi tantum, sed etiam transactione anni 1707 res esset iudicanda, capitulum se obnoxium esse censuit. Parochus contendit, quia in cessione liae, capitulum usum est verbo "subingrediatur." Sed haec *minora* esse patronus iudicat, nec cessionis factum et substantiam subvertere: ideo autem capitulum verbo "subingrediatur" usum esse, quia hactenus dementes sibi addiderat: de cetero in praesentiarum, praesertim post novissimam capituli declarationem, dubium superesse in hac parte non posse: et disceptationem quoad hoc nisi ad frictum faciendum aut facilis victoriae gloriam iactandam desiderari posse. Hoc itaque omisso, orationis aciem patronus dirigere mavult ad funera advenarum ac peregrinorum in civil ate morientium. Et in hoc praenotat contra parochum sancti Cassiani, se dimicaturum non esse appellando ad novissimam concordiam, capitulum inter et parochos civitatis initam: hanc enim ille reiecit, et ideo iuxta eam iudicari non potest. Verumtamen et procul dubio parochum sancti Cassiani afficit vetus concordia anni 1707; ideoque iuxta illam parochum iudicari, orator postulat. In quo, ut strictius adversarium revincat, momenta iuris expendit et notavit, DD. unanimes non esse in hac re, utrum scilicet peregrini et advenae vel transeuntes vel breviter commorantes post mortem inferendi sint ab ecclesia cathedrali, vel potius a parocho loci in quo defunguntur. Cuius diversitatis sententiarum memoria proditur in folio S. C C. Ariminen. 5 Septembris 1846: ubi tamen favore cathedralis conclusum est, sicut favore cathedralis conclusit quoque S. C. EE. et UR. in Fulginaten. 3 Iulii 1592 apud Ferraris v. Sepultura n. 22. De cetero plures numero et gravitate DD. pro

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catheActa, Tom. XX. fase. C C XXX. 1.

[*Latin ed. p. 98*]

98. PISAUREN. The defender argues that the custom is established, and he cites the *Pignatelli Consult*, volume 1, section 444, number 4, and Barbosa, part 3, chapter 25, number 22, which, in addition, cite the resolution of the Sacred Congregation of Rites in Pisauren, January 22, 1628, in which it was decreed that, given the custom established in the city, the right to bury pilgrims and travelers belongs to the cathedral church. The same is clearly confirmed by Pignatelli, *Consult*, canon law, volume 4, section 145, number 3, and another resolution of the Sacred Congregation of Rites in Pisauren, June 15, 1604, in which the same right is recognized and reserved for the cathedral. The defender states that the cathedral church's right derives partly from an ancient universal jurisdiction, as testified by canon 6, cause 13, question 2; and partly from necessity, because those who briefly reside there neither abandon their original parish nor acquire a new one: *Panimoll. Decis. 5, annotation I, number 54. This concerns the common law, in which, if the parish priest does not consent, it is of little use; because, unless it is agreed upon, it must be in accordance with what all Doctors universally hold, namely that in this matter, everything must be determined according to the local custom, as taught by Schmalzgrueber, book 8, title 28, on burials, number 41; Ferraris, *v. Sepultura*, number 22; Sperell, decisions 87, numbers 13 and following. But in Pisauren, this custom is one that is not only demonstrated by facts, but also by a clear agreement and the admission of the parties. Regarding the facts, the advocate alleges the sentences of the Sacred Congregation of Councils of the years 1604 and 1628, and recalls the opinions of Cardinal Pignatelli and Barbosa; he adds notes of burials that the cathedral church has performed, covering two hundred and sixty years; and he notes that the first note shows the burials of two hundred travelers, of whom only 20 were merely passing through, while eighty stayed briefly in the city; the second note confirms almost the same. Regarding the agreement, the most well-known is that of 1707, which was signed by all the parish priests. As for the opponent's admission, it is sufficient to read his protestation of 1876, in which he himself admitted that, in the case in question, the time for prescription had not yet passed.

[*Latin ed. p. 99*]

LUCCA. 99. It is fitting to consider the lack of favor from the Cathedral chapter, as testified by the same chapter. Therefore, the entire question can be related to the limits of the chapter's jurisdiction. The opponent contends that this right should be restricted to mere passers-by; the defender, however, argues that it extends to those who remain for a time, whether for pleasure or for business that does not require a long duration. Indeed, this was defined by a solemn agreement and transaction in the year 1707;

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although this does not please the opponent, it must nevertheless be strictly observed, according to De Luca, book 138, number 4, where it is taught that a remission obtained not through voluntary and gratuitous forgiveness, but through a transaction, honestly undertaken, also affects successors, even though they come with their own rights and independently. And because the value of the aforementioned agreement is opposed by the lack of apostolic approval, the pastor observes that, in matters that have been preserved for more than thirty years, approval is presumed; and he cites De Luca, book 30, concerning canon law, and chapter number 17. Moreover, he adds that, in transactions that involve a small profit from tithes or burials, the consent of the Bishop is sufficient, according to De Luca, on alienation, book 1, number 141. That this confirmation by the Bishop took place in the year 1707 is evident from his presence in the act of the transaction, from the chapter consultation that preceded the transaction in the year 1705, and from another chapter code, in which mention is made of the events. In short, the advocate says, a transaction legitimately initiated, confirmed by the Bishop, with the consent of all, must be observed by successors. In this agreement, all rights concerning travelers and pilgrims are defined. Having considered all of this, the purpose was to resolve the doubt: Does the pastor of St. Cassian have the right to bury and inter all those who come within the limits of his parish?

[*Latin ed. p. 100*]

QUESTION: In Alet, do no deceased persons have a burial place, except only those who are merely passing through in a particular circumstance?

RESOLUTION: The Sacred Office of the Council, after deliberation, on May 1, 1887, decided to respond: The agreement of the year 1707 should be maintained, according to the terms of the concordat of October 20, 1886, and furthermore.

FROM WHICH THE FOLLOWING ARE DEDUCED:

I. The funeral of foreigners and temporary residents who remain for a short time pertains to the Cathedral Church, as the Sacred Congregation of Councils has repeatedly decided, especially if this right is supported by long-standing custom; from which no legal principle dictates this.

II. For foreigners and temporary residents, since they have neither abandoned their original parish nor acquired a new one, natural reason itself indicates that their funerals should be carried out by the prelate to other parishes, either from the principal church of the city or from the cathedral, where the Bishop resides, canon 6, cause 13, question 2.

III. In the matter discussed in the most recent convention, it is stated that foreigners and temporary residents who have remained longer than twenty-five days are considered to be residing in the place.

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FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS, OR THE ORDER OF MINOR REFORMED CANONS, CONCERNING THE VALIDITY OF AN AGREEMENT AND ASSOCIATION FOR FUNERALS.

Date: March 18, 1887.

After the civil law was enacted suppressing the Regular Canons, the municipality of the place, commonly called Grassano, transferred the church of the Reformed Minor Canons, along with some religious of the same Order, to the Bishop, with his consent, so that they could perform sacred functions at the request of the faithful. But not long after, as the number of religious decreased, the sacred functions also began to decrease.

Therefore, in order to promote divine worship and to foster piety, which had already...

(The passage is incomplete.)

[*Latin ed. p. 101*]

The matter had begun to cause disagreement; the Third Order of St. Francis, established in that church under the direction of certain Religious, had been given certain rules and regulations concerning the association with and burial of the deceased, with the approval of the Ordinary. However, the parish priest, greatly displeased that the moderators of the aforementioned Third Order were associating with the bodies without his or the clergy's intervention, and considering that these Religious, living outside the cloister and in private homes, were subject to his jurisdiction, and therefore could not, without his permission, perform any function or act of worship, appealed to the episcopal curia, together with the clergy, against their mode of action. Furthermore, in order to avoid further disputes, the episcopal curia, on June 10, 1885, wrote to two Religious, instructing them not to celebrate funerals for the deceased in the monastery church, except for those who were members of the Third Order. After this, a meeting between the clergy and the two Religious was initiated by the Bishop, approved on September 1, 1885, by virtue of which both the clergy and the two Religious men were to participate indiscriminately in all funerals and to divide the profits among themselves. Since, with these new arrangements, the functions of the Third Order in the monastery church became rarer, and the church itself, with spiritual detriment to the Third Order fraternity, remained deserted and almost closed, the members of the Third Order appealed to the Sacred Congregation of Bishops and Regulars, requesting that things be restored to their former state. Synopsis of the Discussion. DEFENSE OF THE RELIGIOUS. In favor of the Religious, it was primarily considered that the convention of 1885 between the clergy and the Religious should not be maintained, since it was lacking the Apostolic approval. Nor was it sufficient that the Bishop intervened and approved it, but the consent of the Holy See was absolutely required. And such Apostolic approval is

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required in any negotiations, even if they concern Regular Canons who, as in this case, live outside the cloister and in private homes, and in pri

[*Latin ed. p. 102*]

JÖ2 TRICARÏCEN. ETC. are compelled to live in houses, as if secularized for a time; since it is clear that even those Regular Canons who live outside the cloister are truly religious and are subject to the jurisdiction of their Regular Superiors. And this is the doctrine of the Order of Penitents, which, in a declaration of April 18, 1867, concerning such religious, prescribes the following: "It must also be ensured that even Regular Canons, who, outside the cloister and the aforementioned houses, are compelled to live as if secularized for a time, remain steadfast in their vocation, and that they fulfill the solemn vows with which they have dedicated themselves to God, in the best possible way. Therefore, the Order of Penitents declares to all Superiors of Regular Canons that their jurisdiction over their subjects, even those living outside the cloister, has not ceased." Therefore, it was rightly decreed by the Sacred Congregation of Bishops and Regulars, in a rescript of August 13, 1886, addressed to the General Minister of the Reform, that their religious should return to the service of their own church, as before. Having demonstrated that the agreement of the year 1885 was null due to the lack of solemnities, it was concluded that it could not be maintained, and that it could not bind those religious in any way. Regarding the question of the right to bury the dead, it was noted that the Third Order of St. Francis is to be considered not as a simple sodality, but as a Regular Order, and that it has been treated as such by the Roman Pontiffs, who not only approved this order, but also adorned it with the greatest privileges. In confirmation of this, the book of Father Anthony, published in Rome in 1865, was cited, where it is written: "Honorius III approved the Third Order, as evidenced by his letter of December 16, 1224, which was confirmed by Gregory IX." It is said that the successors of these Popes followed their example, namely Nicholas IV in his Constitution *Supra Mortem*, as well as Clement V and Gregory XI. Finally, in recent times, the Supreme Pontiff Leo XIII acted in the same way, with two Constitutions, one of which, dated September 16, 1882, concerns St. Francis of Assisi and the propagation of the Third Order, and the other...

[*Latin ed. p. 103*]

Tricarico, etc., die 30 Mîîî 1883, disserit de regula Tertii Ordinis saecularis Sancti Francisci. Postquam autem statutum est quod Tertius Ordo Sancti Francisci Ordini Regularis aequiparatur, consequenter oportet ut eodem iure et privilegiis fruatur, quibus Ordines Regulares ornati sunt. Deinde, quaenam sint iura Regularum circa sepultura et associationem defunctorum, id mirabiliter explicatur in *Baren*, seu *Ordinatio Minorum Reformatorum super interventu ad funera*. Praesertim vero, ex *Caven* et *Sarnen*,

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de funebribus et emolumentis quae inde orta sunt, quia a Sacra Congregatione, Epistolis et Regulamentis datae sunt normae pro solutione huiusmodi controversiarum, sequendae sunt. In illis, quatuor dubia proposita sunt, quorum primum hoc erat: Num et cui competat ius associandi cadavera ab ecclesiis Regularum, ad quas allata sunt pro funeribus persolvendis, ad coemeterium commune? Sacra Congregatio respondit: Affirmative, favore Regularum. Ad alterum dubium: Num parochi habeant ius percipiendi emolumenta, quae ab haeredibus sacerdoti persolvuntur, qui cadavera ad coemeterium defert? respondit: Negative. Ad tertium dubium: Num Religiosi in cadaverum associatione, de quibus agitur, teneantur vocare parochum, ut ab ipso defuncti ad coemeterium deferantur? respondit similiter: Negative. Tandem, ad quartum dubium: Num Regulares cum stola et cruce propria usque ad sepulchrum procedere valeant, vel potius, dum per parochias transeunt, utramque deponere debeant? rescripsit: Affirmative ad primam partem, negative ad secundam, sine pompa et recto tramite (1). Si ergo, in virtute resolutionis supra citatae, Regulares "iure habent non solum funera peragendi in propriis Ecclesiis; sed etiam cadavera cum stola et cruce propria, sine parochi interventu ad coemeterium associandi," huiusmodi iura, ex causa aequalitatis, etiam ad Tertium Ordinem pertinere censendum est, ex eo quod praefatus Ordo inter Ordines Regulares numerandus videtur. (1) Haec quaestio invenitur in Vol. XIII, paragrapho 416.

[*Latin ed. p. 104*]

104. TRICARICEN. ETC. Nevertheless, a Congregation of the Third Order can independently celebrate Masses, both for the living and for the dead, and perform non-parochial functions, even if it is not considered a regular order, but rather a simple sodality. This independence, which the Confraternities enjoy, is confirmed by numerous decrees, besides the decree of Urbis et Orbis of December 30, 1703, as can be seen in the "Iura Parochialia" of Fermo, June 2, 1736, and especially in the "Iura Parochialia" of Orte, August 1, 1739, where, concerning the doubtful proposition: "Can chaplains in the churches of the confraternities of the land of the Syrians recite the office for the dead and celebrate Mass according to the prescribed Ritual, before the bodies are buried in said churches, or does this pertain solely to the Parish Priests?", the response was: affirmative regarding the first part, and negative regarding the second. Furthermore, concerning the right of intervention claimed by the clergy, it is advisable to refer to the custom prevailing in the Neapolitan provinces; for it is established in law, and De Luca, in "De Beneficiis," book 6, chapter 16, states that custom cannot be extended from place to place, or from person to person; there, "In matters of custom, it cannot be argued that from one diocese to another, since such extension is neither granted in the same diocese, nor even in the same chapter, from one act to another." Finally, concerning the other question, namely

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whether, after the office has been performed, Mass with singing and the funeral rites may be celebrated, it was considered that this right belongs to the Rector of the church, not only in virtue of the aforementioned decree of August 13, 1886, by which the Sacred Congregation of Bishops and Regular Canons prescribed that the religious orders should return to the service of their own churches, but also because, since the aforementioned church is a regular one, it should enjoy the privilege of exemption. Indeed, the provincial minister, having been asked for information and a vote on the matter, responded as follows: "Since the aforementioned church can be considered a regular church, until it is otherwise determined by authority..."

[*Latin ed. p. 105*]

Regarding this matter, it is clear that the privilege of this kind should be maintained, as has been repeatedly defined: I would conclude, in this case, according to the decree of the City and the Order of December 16, 1703, that the named Minor Regular Fathers cannot be prevented from performing non-parochial ecclesiastical functions, at the request of the brethren of the Third Order of St. Francis and other faithful, according to the statutes of the congregation.

Considering these points, it seems to be beyond doubt that the rector of the Third Order has the right to celebrate Mass with singing and to perform funeral rites in the aforementioned church.

DEFENSE OF THE PAROCHIAL PRIEST. On the other hand, it seems evident that the agreement in this case should be fully upheld, because the aforementioned religious, living outside the cloister and in private homes as if they were laymen, are no longer to be considered true religious, who are still under the jurisdiction of their superiors, but rather as simple presbyters, who are solely dependent on the will of the Bishop of the diocese in which they reside.

Now that the matter is presented in this way, it becomes clear that the aforementioned religious cannot invoke the privileges that are proper to regular canons for themselves, and therefore, the aforementioned agreement must be maintained in full force.

Even if the aforementioned are considered to be true religious, and therefore live under the obedience of their superiors, nevertheless, it seems that the agreement should remain in full force, by virtue of the tacit consent of the provincial minister, who is presumed to have such consent, because he could have and should have prevented the religious under his authority from entering into the agreement.

Furthermore, with regard to the question contained in the second part, the following arguments have been presented in favor of the parish priest, as found in Herdt, *S. Liturg. Praxis*, vol. III, no. 227 and following, which state: "The parish priest to whom the deceased belongs is to bring the stole,

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to take the body from the house, to sprinkle it with blessed water, to intone the antiphon 'Exultabunt,' and to lead the funeral procession to the door of the burial church, whether it be secular or regular." (*S. Rit. Congr.*, March 23, 1619; November 20, 1677, etc.). See the Roman Ritual, *Ordo Exsequiarum* (Order of Funeral Rites).

[*Latin ed. p. 106*]

406. TRICARICEN. ETC. > To the Regular Canons, however, it is not permitted, either within the house, or along the road while the deceased's body is being carried for burial, to sprinkle [the body] with holy water, nor to sing or recite the customary prayers before the door of the church; nor is it permitted to do so before the body is placed inside, even if they have chosen to bury their deceased within their own church; for all these things properly belong to the parish priest; and the aforementioned Regular Canons are only to perform the office concerning the body of the deceased after it has been brought inside their church (Sacred Rites Congregation, October 12, 1619; September 3, 1746; and May 7, 1763). In no way are the Regular Canons permitted, even under the pretext of some special custom, to enter the parishes with a processional cross or in any other manner to carry in or out the bodies of the deceased, or to lift them and carry them out, unless the proper parish priest has been called and is present, unless, of course, he consents to it being done otherwise, or expressly refuses to grant permission. (Sacred Rites Congregation, June 22, 1675; and November 20, 1677). All that has been stated above applies to the parish priest even in the case where the Confraternity of the Third Order of St. Francis is considered a regular order. It must, all the more, be the case if it is considered a simple sodality. Indeed, in this case, the parish priest has the right to perform the funeral office over those deceased who were, in life, his parishioners, even if after death they are carried to public chapels of the confraternity, located within the limits of his parish. This is evident from the disposition of the famous decree Urbis et Orbis, where, concerning question XX: "Does the office of burying the dead belong to the parish priest in the churches and public chapels of confraternities?" the answer was: "Affirmatively, when the one who is being buried is subject to the jurisdiction within whose boundaries the church or chapel is located." The same is stated by the Sacred Congregation of Councils in Fabrianen, concerning funerals, January 30, 1830; in Viterbo, concerning parochial rights, September 22, 1826. This is in accordance with the Sacred Rites Congregation, Collectio Cardellin: nos. 2663, 4524, 4643; and also with the Sacred Congregation of Bishops and Regular Canons, in Asculana, February 6, 1874, concerning question III.

[*Latin ed. p. 107*]

TREATISE ON THE PASTORATE, ETC. 107. This pertains to the parish

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priest; regarding the intervention of the clergy in performing funerals, the Bishop introduces the custom prevalent in the Neapolitan provinces, which favors such intervention. It is well known that a custom, when prescribed by law, carries great weight in matters of this nature. Indeed, the Sacred Congregation of Bishops and Regulars, in a decree dated March 28, 1879, concerning the matter in Calaritana, or the Order of Friars Minor, having considered the custom, decided that the Chapter of the Cathedral Church could perform the funeral rites in the church of Saint Rosalia, which belonged to the aforementioned Order of Saint Francis (1). With all of the above stated, the following questions were proposed: I. Whether the Regulars of the Order of Friars Minor should be permitted to abolish the mention of their order in such cases. II. Whether and in what manner the confraternity of the Third Order of Saint Francis should be permitted to associate the deceased confreres, recite the Divine Office, and carry the body to the cemetery, without the intervention of the clergy, and by whom. III. Whether, after the Office has been completed, if the parish priest or someone delegated by him refuses to celebrate Mass with singing and the funeral rites, the Rector is obligated to do so, or rather, whether the confraternity can substitute another priest in such a case. RESOLUTION. The Sacred Congregation of Bishops and Regulars, having carefully examined the proposed questions concerning custom, decided to respond as follows on March 18, 1887: Regarding I, the convention is invalid, and the Decree of the Sacred Congregation of August 13, 1886, should be observed. Regarding II, it is affirmed in all respects for the first part; concerning the second part, the Roman Ritual should be observed. Regarding III, the provision in the first should be followed. FROM WHICH YOU MAY GATHER: I. Conventions established by the Regulars, without the approval of the Apostolic See, are not to be maintained. II. Nor is it sufficient to validate them that the Bishop has approved them, but the approval of the Holy See is absolutely required. (1) You have this question in Vol. XII, page 298.

[*Latin ed. p. 108*]

108 DECRETUM. ETC. III. Et talis dispensation potest concedi, quamquam sit propositum de conventibus de religiosos, qui, foris claustri et in domibus privatis, quasi saeculares, temporariamente vivere coguntur. IV. Tertius Ordo S. Francisci posse aequiparari Ordinibus regularium; ideoque iuribus, exemptionibus et privilegiis propriis regularium frui. V. Iura autem, et privilegia regularium circa sepulcra, haec esse: nempe cadavera associare et a propriis ecclesiis, absque parochi interventu, ad coemeterium ferre, emolumenta percipere; cum stola et cruce propria ad sepulturam procedere, etiam dum per parochias transiunt, dummodo sine pompa et recto tramite id agant. VI. Vicissim parochorum circa suos defunctos iura, juxta Rituale Romanum, *Ordo Exequiarum*, haec esse: nempe stolam ferre, cadavera e domo levare, illa aqua benedicta aspergere,

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intonare antiphonam *Exultabunt* et processioni funerali praeesse usque ad ianuam ecclesiae tumulantis, sive haec sit saecularis, sive regularis. VII. In quaestionibus circa sepulcra, consuetudo multum valere; eam tamen ab una Dioecesi ad aliam extendi non posse. Praeterea, dictam extensionem neque dari in eadem Dioecesi, quin imo neque in eodem capitulo de uno actu ad alterum.

EX S. CONGREGATIONE INDULGENTIARUM DECRETO. De Societate Iesu et Confraternitatibus. Die 16 Iulii 1887. Procurator generalis Societatis Iesu tribus quaestionibus ad hanc S. Congregationem Indulgentiarum et ss. Reliquiarum dirimendas proposuit, quae multa dubia complectuntur. Prima quaestio proposita est de facultate Episcoporum quoad designationem Rectorum Confraternitatum, seu Sodalitatum, quarum statuta generatim ferunt ut singulis annis, sicut ceterorum officialium, ita et Moderatorum fiat electio. Quamvis vero haec S. Congregatio, edito generali decreto sub die...

[*Latin ed. p. 109*]

From the Decree of the Sacred Congregation for Indulgences, number 109, dated January 8, 1865, it was declared that Ordinaries possess the faculty to freely designate, if they judge it expedient in the Lord, pastors to serve temporarily as Rectors, or as Directors of Confraternities or Sodalities. However, some have questioned whether this faculty of appointing pastors temporarily should be understood in such a way that, upon the death of the actual pastor, or even upon the removal of one who was the Director of a Confraternity or Sodality established within his parish, the new pastor would again require the Bishop's appointment in order to be chosen as Rector of the Confraternity or Sodality.

Another question concerns a general decree issued by the Most Reverend Clement XIII on August 2, 1760, by which he graciously conceded that brothers and sisters of any Confraternity, Sodality, or Congregation canonically erected in any place, who are afflicted with some bodily infirmity, or who are detained in prisons, may enjoy all the same indulgences as the other brothers and sisters, provided that, in lieu of the usual visit to the church, they perform other pious works that they are able to accomplish according to their strength, and that this grace is granted perpetually, and to the prayers of any Sodality, Confraternity, or Congregation.

Indeed, when the Sacred Congregation for Indulgences inquired in 1877 whether brothers and sisters of any existing Confraternity could enjoy the faculty granted in the aforementioned decree without recourse to the Holy See, or whether such recourse was necessary according to the following words of the decree – "And did His Holiness intend to grant this grace to the prayers of any Sodality?" – and the Sacred Congregation responded: "Negatively to the first part; Affirmatively to the second part," and with the intention: "It is to be requested of His Holiness that, through a general

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decree, the Indult be extended to all brothers of any Confraternity or Sodality, to gain individual indulgences, by performing works that they are able to accomplish according to their strength"; it is also questioned whether this general decree, which was requested to be published by this Sacred Congregation, and which has not yet been published, is still necessarily required, since in a decree of February 25, 1877, it is expressly stated that the Supreme Pontiff has granted the requested grace, without any mention of the publication of a general decree.

Finally, a question has been raised regarding the necessity of inscribing the names of the brothers in the book of the Confraternity or Sodality, especially in the case of Sodalities or Confraternities in which...

[*Latin ed. p. 110*]

Regarding the matter of Indulgences, although the prescribed rites may be employed in the reception of brothers and members, the statutes of these [religious] bodies do not, at the very least explicitly, require inscription as an essential condition for gaining Indulgences. Therefore, the following questions must be resolved:

I. Given the Decree of January 8, 1861, by which special faculties were granted to Bishops to appoint pastors as Rectors of sodalities, in the event of the death of the current pastor or his removal, who previously presided over a particular sodality, does a new pastor now require a new appointment from the Bishop in order to be chosen as Rector of the sodality?

II. Since in the Decree of February 25, 1877, in response to the first question, mention is made of a general Decree to be promulgated for the benefit of all brothers of whatever fraternity, and since this Decree has not been promulgated, the following is asked:

I) Does this concession now truly apply to all fraternities or sodalities, or congregations, without the need for each individual fraternity or sodality to petition the Holy See, as was previously required? And, if so,

2°) Does it apply only to infirm brothers or those detained in prisons, of whom Pope Clement XIII spoke only in the original concession? Or,

3°) Is it also extended to brothers who are legitimately hindered by other serious causes? And, if not,

4°) Is this extension now humbly requested?

III. Does the aforementioned concession apply only to those brothers who are prevented from performing the prescribed visit to the church? Or,

2°) Does it also apply to those who are prevented from fulfilling any other condition prescribed for gaining Indulgences?

IV. In those sodalities which employ a solemn rite of reception (such as the congregations of the Blessed Virgin Mary), can brothers who are received in this solemn manner by the legitimate President of the sodality gain Indulgences, even if they are not inscribed in the sodality's register?

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V. Is inscription generally absolutely necessary for gaining Indulgences, even if the statutes of the fraternity, congregation, or pious union do not explicitly require inscription as an essential condition?

And the Most Eminent and Most Reverend Fathers, assembled in the general meetings at Vatican on June 25, 1887, responded as follows:

To I: Negatively.

To the first part of question II: Affirmatively, and it is requested that the Most Holy [See] promulgate the Decree according to the resolution of the Sacred Congregation of February 25, 1877.

[*Latin ed. p. 111*]

FROM THE SACRED CONGREGATION OF INDULGENCES, section iii, question 2, parts: Affirmative. Regarding part 3: Negative. Regarding part 4: It is to be requested from the Most Holy [authority] for a benevolent extension to other legitimate impediments to be judged by a prudent confessor, provided that the confessor, having changed the work prescribed by him, assigns another pious work. Regarding part 1 of question 3: Affirmative. Regarding part 2: Negative. Regarding part 4: Negative, if it concerns confraternities properly so called. Regarding part 5: See the provision in the preceding [section]. Concerning all of the above, a report was made by the undersigned Secretary of the Sacred Congregation on July 16, 1887, and His Holiness confirmed the answers of the Fathers, and also ordered that the Decree mentioned in the first part of the second question be issued, and benevolently granted the requested extension, according to the manner expressed in the answer to the fourth part of the same second question. Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on July 16, 1887.

[Signature] THOMAS M. CARD. ZIGLIARA, Prefect.

[Signature] ALEXANDER, Bishop of Oenus, Secretary.

DECREE. Concerning the admission of members of religious institutions to the Third Secular Order of St. Francis of Assisi.

July 16, 1887.

Moved by divine charity and zeal for souls, St. Francis of Assisi, in addition to the First and Second Orders of the Cloistered Minor Friars, also instituted a Third Order for those living in the world, so that they, according to the condition of their state, might arrange their lives according to the path of evangelical counsels. The countless monuments of virtue and piety that those admitted to the Third Order have left behind over so many centuries, as well as the more recent increase in devotion to the seraphic Father, have been the reason why members of religious institutions have also wished to be admitted to the same Third Order; and already since the year 1869, on May 3rd, the Minister General of the entire Order of the Minor Friars granted the faculty of receiving students of the aforementioned institutions

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into the Franciscan Third Order.

[*Latin ed. p. 112*]

112 FROM the Decrees concerning Indulgences, and also concerning the special privilege granted by the Brief of April 7, 1876, allowing them to visit the Church or chapel of their own Institute, as often as they would visit a church of the First or Second Order of Seraphic Friars, in order to gain Indulgences. Although the Most Holy Pope Leo XIII, by the Apostolic Constitution "Misericors Dei Filius" of May 30, 1883, renewed the law concerning this Third Order, nevertheless, since nothing was entirely changed, but rather everything concerning the nature of the aforementioned Third Order, which is called the Secular Order, remained intact, a doubt arose as to whether the members of religious Institutes, to whom the singular grace has been given to strive for a more perfect life through the vows, could also embrace the Secular Third Order of St. Francis. Wherefore, the Most Reverend Bishop of Verona, urged by several confessors from his diocese, in order to remove all hesitation in this matter, proposed the following questions to be resolved by the Holy Congregation for Indulgences: I. Whether all, of either sex, who are members of a religious Institute, or Congregation, either approved by the Supreme Pontiff or by a Bishop, in which vows are made, either perpetual or temporary, can be admitted into the Third Order of St. Francis of Assisi. And, assuming the affirmative, II. Under what conditions is this permitted to them? The Most Reverend Fathers answered in the general assemblies held at the Vatican on June 25, 1887: To I: "No, in accordance with the decision of the Most Holy [Pope]." To II: "Provided for in the first [question]." A report on all of these matters was presented in an audience held by the undersigned Secretary on July 16, 1887, and the Most Holy Pope Leo XIII, having approved and confirmed the answers of the Cardinals, decreed as follows. Given at Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on July 16, 1887. Fr. THOMAS M. CARD. ZIGLIARA, Prefect. ALEXANDER, Bishop of Oenis, Secretary.

[*Latin ed. p. 113*]

113 FROM THE HOLY CONGREGATION OF THE COUNCIL OF IESI, ADMINISTRATION, March 5, 1887. Session 24, chapter 18, concerning reform. SUMMARY OF FACTS. After the pseudo-law which overturned ecclesiastical property, the Prior of the Cathedral Church of Iesi, which holds the first dignity, and the canons of their benefices ceased to exist, according to which the income of each benefice was to be determined. Consequently, the Prior was assigned an income almost double that of the other canons, or 525 florins. However, since the government had left nothing to the Chapter due to its customary care of souls, the Chapter appealed to the civil court and first instituted an action to recover the assets of the individual

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benefices, as they were considered to be under its care. But when an adverse judgment was rendered, all the assets, including those belonging to the Prior, were sold by the government. This judgment, though victorious, but not entirely so, led the Chapter to again appeal, seeking to be exempted from the payment of a tax of 30,000 florins, not entirely, but partially, or on that portion of the individual benefices which contributed to the proper functioning of the parish. The proposal, as presented by the Chapter, was not accepted by the government, which preferred to address their requests in another way, namely, by restoring the priorate benefice; but since the assets of the priorate had already been sold, it was decided that the price of the assets should be restored. Therefore, a public treasury certificate for 7,307 florins was issued and granted in favor of the Prior, which was added to the certificate of 523 florins initially assigned to the Prior. Records, Volume XX, page 331.

[*Latin ed. p. 114*]

114 IESI. From this day forward, numerous controversies arose concerning the canons and the prior for the time being, both regarding the retention of this bond of 7307 livres, and concerning the administration or allocation of its revenues; in order to resolve these matters, the Bishop, together with the prior Magagnini and the Chapter, decreed that this bond of 7307 livres should be kept by the Chapter and that the Chapter's treasurer for the time being should demand it, and that he should administer the aforementioned sum in favor of the cathedral church, and should disburse it according to the dispositions of the entire Chapter. After the priorate became vacant and Andrea Cesari entered into possession of it, on June 27, 1876, he signed an obligation in which it was stipulated that, after providing for the prior's allowance of 5250 livres, the remaining sum, as a designated fund, should be ceded to the Chapter and should be administered by the Chapter's treasurer for the time being, and should be disbursed for the expenses of the Cathedral with the approval of the Chapter. In order that this agreement might be firm and secure, the Bishop, with the approval of the Most Holy Congregations and the Holy Roman Pontiff, obtained the following rescript: "The reconciliation concerning which is mentioned above, having been approved and confirmed by the Most Holy Congregations, with the consent of all those concerned, is hereby approved and confirmed." Furthermore, when, in the year 1884, the aforementioned position became vacant due to the death of Andrea Cesari, and John Annibaldi was appointed, a meeting was held before the Most Reverend Cardinal Pro-Datary, with the Bishop, the Chapter, and Annibaldi, by virtue of which the revenues of the bond of 7306:30 livres were to be demanded by the Chapter's treasurer, with whom the bond must be deposited; but with the condition that all expenses and taxes that affected the bond itself, as well as three-quarters of the pension of 2000 livres by which the priorate

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was burdened, should be paid by the Chapter. However, Annibaldi, upon taking possession, refused to hand over the bond; he received the revenues of the first and second semesters and retained them for himself, despite the Chapter's complaints and the Bishop's attempts to persuade him.

[*Latin ed. p. 115*]

AESINA 1f§, considering the matter at hand; indeed, Annibaldus defended himself with this argument, claiming that he had been deceived by the Bishop and Chapter regarding the aforementioned obligation. A SUMMARY OF THE PREVIOUS ARGUMENT. The defender of the Prior first pointed out that the document numbered 7306, as well as another document numbered 5250, which were inscribed in the Prior's records, were nothing other than the price of the funds which Paul III had assigned to the priory, and which the treasury had unjustly sold. Therefore, whether the first or the second document should be administered by the Prior at the time, according to the commonly accepted principle: "The price succeeds in the place of the thing, and takes on the nature of that in whose place it is substituted." To contradict this, the defender argued that the Chapter, contrary to the teaching of Lotter, *de re benefic.*, book 6, question 1, number 8, necessarily confuses spiritual rights with temporal rights. In fact, the spiritual right, apart from the service of the choir, consists for each member of the Chapter in the care of souls. As for the temporal rights, after the common table disappeared in the year 1520, the canons had nothing further in common with regard to this, but each one provided for his own, without any interference from the others, which increased or decreased depending on the possessor, not the Chapter. Similarly, from the year 1862, both the Prior and the canons received a document from the public treasury, based on the declaration of income and proceeds from the individual stipends, which each one keeps and administers. From this, it is clear that the parish is 'collectively' in regard to spiritual rights, but is entirely separate in regard to temporal rights; the Prior and the canons are associated in regard to spiritual matters, but are not associated at all in regard to temporal matters, but rather, each, in accordance with the Chapter's constitutions, proportionally pays taxes, by which the expenses of the parish and the worship are sustained. Such expenses of the parish and the worship, called, at the present time, after the confiscation of goods, amount to 3711, of which 2280 are paid by the canons in accordance with the Chapter's constitutions.

[*Latin ed. p. 116*]

116 at Iesi and 1718 by civil laws are annually paid to the prior. From this, it becomes clear how unjustly the canons inscribed in their codes a sum of 5250 florins for the prior; whereas, they called the sum of 7305 florins, which is no less than the value of the priorate's assets, "a revenue due to the chapter, assigned as a quota for the church." Furthermore, since in one

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of the documents, no mention is made of the priorate, while in the other it is explicitly stated, it does not necessarily follow that the first document pertains to the prior, and the second to the chapter. Moreover, it is entirely impermissible for secular authority to transfer the revenue of one ecclesiastical benefice to another, or to draw from the common fund. The advocate also observes that both documents must constitute a single agreement, and therefore cannot be separated. This is confirmed by the fact that, except in the year 1874, the canons never requested that the Holy Father issue two bulls for the collation of the priorate, assigning one document to the prior for the sum of 5250 florins, and the other to the chapter. This is further confirmed by the fact that when the treasury granted the civil possession of the priorate to Giovanni Annibaldi, it simultaneously stipulated, in a solemn agreement, that the priorate would retain the document for the sum of 7305 florins, in exactly the same manner as the document for the sum of 5250 florins.

Turning to the second point, the advocate first discusses the value of the rescript of the Most Holy and Religious Fathers and Brothers, and concerning the words contained therein: "The agreement, concerning which, was approved by the Sacred Congregation (S.C.)." He observes, first of all, that such an agreement was entirely favorable from one side, and therefore, entirely unique. Indeed, while on the one hand, the prior ceded everything to the chapter, except for the 5250 florins which he retained for himself; on the other hand, the chapter gave nothing at all. Therefore, it cannot be assumed that the concept of an agreement implies that something was given and relinquished by both parties. He also observes that the requests upon which the rescript is based contain many things that are contrary to truth. For...

[*Latin ed. p. 117*]

1. Concerning the matter, there was no disagreement between the chapter and the prior, who, since October 4, 1874, had been entrusted with the administration of the entire revenue of the prebend; and the chapter had unanimously approved the pension of 500 scudi reserved by the Supreme Pontiff for the collation of the priorship.

2. It is asserted in the petition that there exists a collective parochial right, which, according to the aforementioned statements, does not exist in temporal matters.

3. It is added that the chapter has the right to a curatial share, which is a matter of dispute.

4. Finally, the reason for the decision made to the Pontiff was that all those concerned had already given their consent.

Regarding the prior Cesari, who was one of those concerned, the advocate points out that only a certain declaration was found, signed solely by

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him on June 27, 1876, in which he ceded to the chapter, for the time when he was prior, whatever amount exceeded 5220.77 livres. However, at that time, the prior was already suffering from mental derangement, having been afflicted with mental illness since 1874. Nevertheless, this act, which was presented to the chapter as an act of donation made by the prior Cesari at the time when he was prior, was presented to the Sacred Congregation as an act of conciliation, the approval of which was sought.

Concerning the agreement of the chapter, signed before the Most Reverend Pro-Datary by the prior Annibale, the advocate argues that Canon Palmigiani, who appointed himself as the delegate of the chapter, had not received any mandate from the chapter. Therefore, while the prior remained obligated to hand over 7305 livres to the canons, the chapter would not be obligated to pay the prior 5389 livres, which were stipulated in the same agreement as a pension and taxes. It may even be said that this was a mandate given outside the chapter, which would certainly be subject to the vice of nullity, according to Hot. decis. 405, n. 42 et seq., part. 42, recent. Or, could the resolution of May 1886, in which the chapter agreed to submit to judgment, stand in place of a mandate, since it is contrary to the nature of a mandate, but allows for what was done? Rot. decis. 134, n. 14 et 15, part. 9, recent. Or, finally, could the ratification take the place of a mandate?

[*Latin ed. p. 118*]

118. At Iesi [AESINA] is deceived; for this was not possible; because the aforementioned Annibaldi immediately detected the deceit and revoked his agreement. Finally, the advocate argues that, if the aforementioned agreement were accepted, more inconveniences and absurdities would follow; namely: 1. That fraud and deceit would be supported; 2. That while the prior would retain only a bond of 5250 *lire*, the prior would be obligated to pay to the treasury annually 4806 *lire* by virtue of taxes and burdens, and also 2000 *lire* to pensioners, and that the prior would not be able to pursue anyone, in the case that the treasurer of the chapter would either refuse or be unable to pay the fruits of 7305 *lire*, because he has no partner in temporal matters; 3. That if the prior were to hand over the bond of 7305 *lire* to the chapter, he would deceive the treasury in a public instrument of possession; which natural law does not permit (1. ff. de pecunia constituta); 4. Finally, the canons defend their own rights, asserting that the bond of 7305 *lire* is a designated portion or sum with which the needs of the clergy are met, and that the treasury pays this sum in each vacancy of the canons. The advocate of the chapter presents, above all, an argument by which he hopes to appease the entire controversy. He states that the Supreme Pontiff, who possesses the dominion of ecclesiastical goods, as Riganti states in *reg. 18 Cancel!*, n. 79, concerning the collation of benefices, can and does add, along

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with pensions and burdens, any conditions whatsoever. Furthermore, the *syngrapha* signed by Annibaldi on December 25, 1884, before the Most Reverend Pro-Datary, should be considered not as a simple, private agreement, but as an agreement accepted with apostolic authority, or rather, as a condition imposed by the Pope in the collation of the priorate, namely, that this dignity should not be conferred unless Annibaldi first promised to hand over the bond of 7305 *lire* to the chapter. And it is not surprising that, when a portion of a benefice is conferred upon one, or upon the prior, the fruits are assigned to another, or to the chapter; for this is not unusual in ecclesiastical discipline, as Cardinal De Luca testifies in *de feud.*, disc. 90, n. 2, *IURA CAPITULI*.

[*Latin ed. p. 119*]

AESINA 119. Once this is established, the law or will of the Pontiff can never be rendered invalid, namely, the law by which one of two portions is assigned to the prior, and the other to the chapter. Even if a title of error, ignorance, or false cause is alleged to invalidate the agreement, it does not apply. For the Pontiff's law concerning the allocation of portions is one thing, and the acceptance of that same law is another. Nor do the objections raised by Annibaldi have any force, namely, that the sum of 730 livres is owed to him, either because it is listed first in time, or because it was acquired from the substance of the priorate. Indeed, if it is true, as he adds, that that sum of 730 livres was granted by the treasury for no other reason than that the chapter demonstrated that the care of souls belonged to it, and therefore it had a right to a suitable parochial endowment. In this matter, the fiscal codes do not simply state that the endowment is to be given to the priorate; but that it is to be given to the priorate *for the care of souls*. But at no time has the prior's benefice ever been *for the care of souls*. Although the orator asserts that it is superfluous and entirely pointless to insist on the opinion and will of the treasury. For the rights of the Church would have been settled if these matters were to be measured by the arbitrary will of secular power. Furthermore, since it is a fact that the care of souls inheres not in the primary dignity, but in the chapter, it necessarily follows that the chapter must receive, expend, and administer all things pertaining to the care of souls and the church, while the prior has no right other than that of a member of the chapter. Especially since it has always been agreed upon between the Bishop, the chapter, and the priors in office, and since Annibaldi himself, while still a simple canon, acknowledged, both in deed and in word, that the chapter, and not the prior, had the right to the sum of 730 livres. Indeed, it is well established in law that the force of a particular declaration precedes all forms of proof, as Cardinal De Luca states in *Summa*, in the sixth place, on judgments, section 23, number 1, and in the *Summa*, number 75: because what has

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once pleased, cannot displease any longer.

[*Latin ed. p. 120*]

120 IESI. Concerning the exception of error and ignorance against the agreement of December 22, 1884, presented by Annibaldiò, the defender observes that it must, above all, be rejected, because he who invokes such an exception ought not to be heard, unless he clearly demonstrates the cause of the error and ignorance. See *Rota decis. 1254 cor. Mòli nes n. 2 et seq.* In the case of Annibaldiò, this ignorance cannot be supposed, since, over a period of twenty years, he has held a position in the chapter, accumulating the principal duties of the chapter, and since everything that was done or said by the chapter, especially concerning rights against the superiors, was always before his eyes and hands. Nevertheless, good faith does not permit a dispute about error in one who had the clearest understanding of what was being done. See *Rota loc. cit. n. 4 Lotter. ì)e re benef. lib. 1 quaest. 29 n. 42.* Furthermore, the defender adds that ignorance was expressly excluded by Annibaldiò himself, since in the solemn assembly he confessed to having understood everything. Moreover, it is established that he who is certain is not further obligated; see *Rota dec. 644 n. í¿ cor* Éisihio. Considering these and other points, especially concerning the errors devised by Annibaldiò, in order to free himself from the obligation of delivering the ticket, number 7305, to the chapter for safekeeping, the following question was proposed: Does the law of the chapter concerning the safekeeping of the public treasury ticket, number 7305, inscribed to the prior for the time being, and the administration of its revenue, exist, and if so, how should provision be made in such a case?

RESOLUTION. The Sacred Congregation, after deliberation, on March 5, 1887, decided to respond: Affirmative, even concerning the superiors who succeed in the office, observing the rules and statutes established before the Most Reverend Pro-Datary, in the year 1854 and later.

FROM WHICH IT IS UNDERSTOOD: The succession to a position implies the assumption of the nature of that position, into which the successor is substituted.

[*Latin ed. p. 121*]

I. It is most necessary to clearly distinguish between temporal rights and spiritual rights pertaining to ecclesiastical institutions.

II. That which is actually performed is of greater value than that which is merely simulated.

III. The rights of the Church ought not to be measured by the arbitrary will of secular power, but by the dispositions of ecclesiastical authority.

IV. The force of a proper agreement is such that it precedes all appearance of proof.

V. It is contrary to the nature of a mandate to grant something to that

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which was done, nor to undertake anything, unless the ratification of the mandating party follows.

VI. Those who oppose a convention initiated by themselves with the exception of error and ignorance ought not to be heard, unless they clearly demonstrate the causes of the error and ignorance.

VII. It is not permissible to offer the excuse of ignorance, when someone has perceived, or was obligated to know, what he has done, and either knew, or could have known, that it was wrong.

VIII. A signed agreement presented before the Most Eminent Procurator should not be considered as a simple private agreement, but as an agreement accepted with apostolic authority, and therefore, it also has the force of obligating.

FIRMANA: Regarding the Imposition of an Obligation.

April 4, 1837.

The Priest Augustine, of Augustine, on the 28th of September, 1837, in the name of a charitable subsidy, instituted a chapel in favor of the poor Sericus, who was preparing for the sacred orders, and who might be in the parish of St. Matthew in the city of Ascolana, with the obligation of celebrating 50 Masses within the year, reserving the favor for the parish priest of St. Matthew, with the faculty of nominating a benefactor and administering the benefits, during the vacation.

Summary of the facts.

[*Latin ed. p. 122*]

In Fermo, in the absence of a chaplain, the parish priest of S. Matthaei approached the See, requesting that a permanent obligation be attached to this benefice to assist the parish priest of that place in the care of souls, considering that the office requires a stable chaplain, for whom it would be impossible to provide a sufficient provision from the small revenues of the parish. The Archbishop, consulted, stated: "The matters related to the institution of a charitable subsidy are based on truth, and it would be highly appropriate to provide an assistant for the care of souls for the curate of S. Matthaei, due to the sufficiently numerous population; to whom a sum of one hundred and fifty livres, derived from the usurped benefice, can be provided. Therefore, in order that the assistant may have a more secure stipend and thus be upon his services more safely, the petitioner intends to permanently combine both revenues, namely the aforementioned sum and the charitable subsidy, in the same person, or at least to have two assistants together, from whose combined efforts he hopes to obtain constant and certain relief in the exercise of the pastoral office." However, it was deemed that the request should be denied, not granted. Nevertheless, the parish priest insisted, stating the absolute necessity of having a chaplain, adequately provided for, and the reason for avoiding the danger that a

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priest, provided with this benefice, might establish his residence in the parish with the burden of only saying Mass annually, without providing any assistance to the care of souls.

A SYNOPTIC DISCUSSION: PRAYERS SEEM TO BE REJECTED.

First principles of law prevent the acceptance of these prayers, as they prohibit the imposition of a new burden on benefices, namely, c. un. § Omnibus tit. "So that ecclesiastical benefices may be conferred without diminution," together with C. Prohibemus I. de Cens., Can. Si quis praeb. q. 3, and the Council of Trent, Session 25, c. 5 De reform., where the reason for such discipline is also given: "The reason" requires that nothing be taken away from those things which are well established, by contrary ordinances.

[*Latin ed. p. 123*]

FIRMANA 123. The will of the founder, expressly stated, presents a further obstacle, for he wished to impose no other burden upon the beneficiary than that of 50 Masses; to this, obedience must be given, and it should only be set aside for reasons of grave necessity or great utility, as the laws clearly stipulate in Clementine Decretals. When it happens that, as stated in De relig. dom. L. Verbis 420 ff. and Nov. 22 c. 2, justice and piety towards the deceased demand it, and prudence, lest the faithful be alienated from pious foundations, advises it. However, if the burden of the care of souls were to be added to this matter, something further, indeed contrary to the foundation, would be decreed. For the testator has expressed what he wished, and has not expressed what he did not wish. Indeed, in the hypothesis, although not entirely certain, yet probable, that the assessment in question is not a true benefit, but a simple, as it were, charitable subsidy; to add the burden of the care of souls to it would constitute a most serious alteration; for by this, the former would change its ancient nature, and assume the appearance of a true benefit. Furthermore, since this assessment is now freely granted at the pleasure of the parish priest, with the granting of prayers, this freedom would cease: for whether on account of the added care of souls, or because the assessment would assume the nature of a true benefit, it would henceforth be subject to the Bishop. It is stipulated in Tridentinum, Session 15, chapter 12, De reform, that "in the case of a foundation or endowment of any benefit, such institution shall be reserved to the Bishop and not to any inferior official." Moreover, it is the common and accepted doctrine that a coadjutor or vicar of the parish should be appointed, if it is customary, by the parish priest; but that the approval of the Bishop should be obtained, if not already given. This is expressly stated in Innocent XIII, Apostolici ministerii, in accordance with chapter 18, session 24, and chapter 1, session 23, De reform. Tridentini. That the assessment in question is not a true benefit is inferred, not only from the

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name itself, which is given to a charitable subsidy, but especially from the fact that it appears to be constituted in such a way that it is subject to a single parish priest, and is freely granted by him. Whereas, if it were a benefit and canonically erected...

[*Latin ed. p. 124*]

124 In Fermo, in regard to its institution, it ought to be subject to the Ordinary, according to the sense of chapter 12 of session 15 of the Council of Trent, as cited above. PRAYERS ARE TO BE RECEIVED. But, on the other hand, it is affirmed that what is held is not a true benefice, but merely a provision. For, when goods or revenues are granted to a cleric for the purpose of supporting his life, under the title of ordination, and with an attached spiritual charge, the provision, in its essence, is a benefice. This is defined as a temporal right annexed to a spiritual office, or "a perpetual right to receive revenues from the goods of the Church, established by ecclesiastical authority," as Garzia states in book 1, title 2, number 2. Furthermore, the matter to be considered is whether ecclesiastical authority intervened in the erection of the benefice; indeed, this can also be understood implicitly, as Lotterius teaches in book 1, title 5, number 63, and D'Annibale in *Summa Theologica*, part 3, § 22, namely, if the right in question is conferred as an ecclesiastical benefice. Moreover, those who hold the provision should consider whether, in this case, it is either definitively a benefice, or something so closely related to a benefice that it cannot be separated from the burden of care. For, "since ecclesiastical benefices are established for the performance of duties," as stated in session 21, chapter 3 of the Council of Trent, it seems fitting to attach the same care for souls to benefices, even if they are simple and free, if divine wisdom and the good of souls require it. Whether this requirement or necessity is present in the matter at hand, the Most Reverend Fathers can judge from the details presented. A parish priest needs a coadjutor, and lacks the means to retain him, and a provision presents itself by which this difficulty can be resolved. Nor should it be said that this contradicts canon 5, cited above; for although there it is forbidden that well-established things be contradicted by contrary regulations, it seems to be said in order to prevent "that, when certain obligations are imposed on benefices through their erection," they be nullified "by the collation of benefices"; rather than to exclude the possibility that new obligations can be imposed on benefices; for it is always true.

[*Latin ed. p. 125*]

In FIRMANA, it is understood that when benefices are established for the service of the Church, it appears just to add to them some new obligation, besides the former one, if the service of the Church requires it, as stated by Angelus in *Praelectiones*, title 12, number 2, book 3, and even more strongly, if the good of souls demands it, because the salvation of

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souls is the supreme law, and it encompasses the entire life and purpose of the Church. Otherwise, the Council of Trident, in its decree concerning the simple benefice, does not contradict the addition of souls to the care of a benefice, especially in cases of necessity, as it permits in chapter 5, session 21, that Bishops, even as delegates of the Apostolic See, may make "unions" of perpetual duration between the curators of any parochial and baptismal churches and other benefices, whether they are "curators" or not, with curates, due to their poverty and in other cases permitted by law.

But another observation is relevant to the matter: since an estimate must be given in the question, whether it is a benefice or not, to the priest; so that, when, in "common" necessity, priests can be compelled by the Ordinary to perform sacred duties, to administer the sacraments, and even, if the parish priests are not sufficient, others may be added to assist them, to teach children the rudiments of the faith, to preach, and to care for souls, as stated by D'Annibale in volume 3, number 468, according to the Council of Trent, session 24, chapter 18, concerning reform; and since, above all others, those who are attached to a church or parish can be compelled in cases of necessity, as can be inferred from the document of the Sacred Congregation and the resolution given in Urbisvetana on May 10, 1766; it would seem that, at least under the present circumstances, the Bishop himself can compel a priest to whom he has granted a testimonial to care for souls.

Nor should we overlook the will of the founder, when examining it: for if the will of the founder is interpreted according to the purpose of the institution, it will be clear that it is not destroyed by the granting of the desired grace, but rather is more perfectly fulfilled; for whatever the will of the founder may be regarding the manner of choosing a cleric, it is certain that he always intended that the care of souls should be provided for in some way.

[*Latin ed. p. 126*]

126 In Fermo, considering the spiritual good of the church of St. Matthew, it is evident that this end is more perfectly attained through the addition of the burden of care for souls than through the mere celebration of Masses. With these premises, the following question was proposed: How should the burden of care for souls be attached to a benefice in this case?

RESOLUTION. The Sacred Congregation of the Council, having considered the matter, on April 31, 1887, judged it fitting to respond: Negatively, in all cases.

FROM WHICH THE FOLLOWING IS GATHERED:

I. It is certain from the law that ecclesiastical benefices cannot be reduced to servitude; for the Council of Trent, Session 25, chapter 5, concerning

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reform, states that those things which are well established should not be deprived of their proper order by contrary regulations.

II. Justice and charity towards the deceased demand that the wills of testators be observed according to the laws; thus, only the Roman Pontiff, for a very serious reason, can add to or subtract from their dispositions concerning pious causes.

III. It seemed to the Emissen Judges to be a matter of too great importance to add the burden of care for souls to a chaplaincy, which would entirely change the nature of the benefice.

PREMISES. OPINION REGARDING THE NULLITY OF THE SENTENCE. June 18, 1887. Session 21, chapter 6, concerning reform.

SUMMARY OF FACTS: In the town of Wiezownica, in the diocese of Premisli, there exists a parish, which is under the patronage of the Prince George Czartoryski and encompasses 2600 souls. Its pastor since 1877 has been the priest Adalbert Zywicki. But, although he is chaste in his morals and learned, he...

[*Latin ed. p. 127*]

PREMISLIEN. Endowed with a refined nature, and a vigilant guardian of public decency, he nevertheless quickly displeased many parishioners. For the anger which he readily bears often boils within him, and he is not ashamed to afflict and torment his parishioners, now with words from his pulpit, now at home with blows and beatings, whenever the opportunity presents itself. Furthermore, driven by avarice, he was wont to demand contributions for his spiritual ministrations, especially on the occasions of marriages and funerals, or even to prescribe manual labor for his own benefit, demands which were excessive and often unbearable. For these reasons, due to the complaints of the lord of the manor and some of the parishioners, the Bishop, in the year 1882, formally warned the parish priest in writing to reform and to better fulfill his pastoral duties. But since this warning produced no effect, compelled by new complaints, the Bishop ordered a formal investigation into the conduct of the priest Zywicki. Therefore, an investigation was conducted, and finally, on February 20, 1885, a judgment was rendered, in which he was ordered to choose another benefice within two years; otherwise, after that time, he would be transferred to another office. Furthermore, he was condemned to spiritual exercises for one month; and finally, he was warned that, if he were found guilty of further offenses, without any mercy, he would be deprived of his parish benefice. The priest Zywicki accepted the judgment, performed the exercises; but, as is asserted, he did not abandon his ways. Indeed, he was again accused of cruel exactions concerning vestments, and of inhumanity towards the lord's servant and another person, whom he struck so severely that he was forced to remain in bed for a long time. Therefore, with a new process still underway, and less than two years having elapsed, on February 18, 1886, the Bishop

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issued a final judgment against this priest, imposing as punishment his removal from the parish of Wiezownica, and his transfer to another parish called Wolocza, which was then vacant and adequately provided for, and which he was to accept at the discretion of the Ordinary.

[*Latin ed. p. 128*]

I. I. S. PREMIXEN. Statim, sacerdos appellavit ad Metropolitanum, et ad Concistorium Leopoldinum, sed Archiepiscopus sententiam primae instantiae in omnibus confirmavit, die 14 Septembris 1886. Dicit Ordinarius, die 11 Octobris, se sacerdotem Zywicki ad se vocaverat, et se dixisse, se sententiae datae acquiescere, et solummodo ex gratia petisse, ut sibi aliquot adhuc dies concederentur, quibus posset negotia sua in paroecia "Wiezownica" ordinare; cui petitioni Episcopus favorem suum exhibuit. Sed, cum tempus fatale elapsum esset, et sententia in rem iudicatam iam daretur, die nempe 7 Octobris, eundem sacerdotem supplici libello exoravisse, ut sententia, contra se lata, annullaretur, et sibi in sua paroecia manere permitteretur. Sed hoc ei negatum est, simulque iussum est, ut die 10 Novembris a paroecia discederet. At, vicissim, parochus dicit, se statim, postquam sententiam sibi lectam audivit, coram decano et vicedecano Jerolasviensi dixisse et declaravisse: se appellare ad Sedem Apostolicam. Inter haec, certum est, die 14 Novembris, ante diem scilicet intimati recessus, parochum litteram ad Episcopum transmisisse, in qua significabat appellationem ad Sedem Apostolicam, et in qua continentur plura de iniustitia iudiciorum contra se institutorum. Cum tamen utile tempus ad appellationem iam transiisset, Ordinarius litteram non exceptit. Verum, ex misericordia, terminum commorationis in Wiezownica ad diem 25 Novembris inclusive prorogavit, notans: quod, nisi parochus institutionem in aliam paroeciam intra hoc tempus acciperet, poena suspensionis plectetur ipso facto incurrendae, et irregularis fieret, quatenus, hoc expleto termino, sacras praesumeret peragere functiones. Die 14 Novembris, sacerdos iterum, insistens, personaliter in Curia comparuit, novas et effusiores preces emittens; sed Episcopus, pro bono duarum paroeciarum, eum monuit et obsecraverat, ut praeceptis datis pareret. At, incassum. Rediit parochus ad Wiezownica, ibique mansit, et die 26 Novembris...

[*Latin ed. p. 129*]

On the 12th of December, having already exceeded the prescribed term, he celebrated Mass. When the Prelate learned of this, he sent him severe letters. The parish priest, terrified by these admonitions, abstained from celebrating Mass on the 28th, claiming that he had done so out of ignorance; and, together with the letters, he personally implored to be absolved from the suspension. But the Bishop insisted that he could not do so until the priest himself renounced his obstinacy. Therefore, I proclaimed that the parish priest would appeal to Rome regarding this matter. In the meantime,

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the Bishop delegated the priest Thomas Blahuta to govern the parish of Wiezownica, who was duly instituted on the 26th of November, despite the objections of the priest Zywicki, and this action was denounced by Zywicki as being contrary to the canons. However, Blahuta, with the assistance of the civil authority invoked by the Bishop, quickly obtained the temporal benefits, by which the priest Zywicki was, in fact, deprived from that day forward. Thus, in the month of January of this year, letters arrived from both sides: from the Bishop, who, having recounted the facts, requested advice on the further course of action; and from the priest Zywicki, who, with certain alleged documents, presented a lengthy defense of his actions and a description of the violated legal proceedings.

A Synopsis of the Dispute.

WHAT APPEARS TO FAVOR THE PARISH PRIEST.

The priest Zywicki briefly summarizes as follows: that he, having been instituted in the parish of Wiezownica, in order to correct the depraved morals of the people, from the very beginning introduced a living Rosary and a Society of Temperance, to which first the youth and then the majority of the parishioners adhered; that he built a house for the church organ, and repaired certain other buildings and, above all, the parochial buildings; and that he generally spread piety and instruction among the people. Therefore, the Ordinary, in his judgment of March 18, 1886, Atta, Vol. XX, p. 231, states:

[*Latin ed. p. 130*]

130. He had to confess: "Because the aforementioned Lord Albert Zywicki otherwise leads a sober and continent life; and because he is zealous in providing spiritual services to the faithful people, therefore, etc." Nevertheless, precisely because of his zeal and religion, he incurred the hatred of many, and especially of the patron, as well as of some vintners; that hatred, from which even his predecessor could not escape, and which ultimately forced him to abandon the parish. But the patron's aversion escalated into mortal enmity, arising from a dispute against him and a successfully conducted defense concerning a certain contribution of wood; and also from the insistence of the pastor that he, the patron, contribute to the construction of the church, which was built of wood and is now almost completely consumed by fire. Furthermore, through the machinations of this powerful enemy, it came to pass that he himself was accused before the court, and an investigation was instituted against him, and finally, although innocent, he was condemned.

Moreover, all of these things were deliberately planned, and were carried out through deceit and with the violation of all forms of due process. First, the investigation, which is commonly called a process, to which the pastor of Dorwald had been delegated, was conducted in the patron's

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house: there, in the hostile house, witnesses and accusers were questioned and heard, and there the judge of the investigation also received food and lodging. Second, before the depositions, the slanderers and accusers were summoned to swear, and they responded: "If the commission compels us to swear first, then no one will approach the commission." And the commissary did not order anyone to swear first. Third, the accused was not summoned to hear the oaths of the witnesses and accusers. Fourth, the judge admitted only the most intimate, the most abject, and the most villainous people to give testimony. Fifth, at the conclusion of the offensive process, the judge showed the accused no charges, nor did he indicate to him anything that had been said or presented by anyone. If these things, as they are presented, were true, then undoubtedly the process was null and the sentence was illegitimate.

[*Latin ed. p. 131*]

PREMÍSLIEN. 131. No testimony, however religious a person may be, is to be believed unless he has sworn an oath, according to canon 51 of the *Nuper* collection concerning testimonies. Even less is the testimony of those who are laboring under hatred, or who are suspected of being influenced by bribery and corruption to be believed. Furthermore, as is known from Pirhing in *Z Decr.*, title 27, § 3, number 417, and from other Doctors, "if the order of the legal process is not observed, the judgment is null." And Bouix, in *De iudiciis*, volume 2, page 406, writes: "A judgment is null by reason of the process if it is pronounced in a non-contested case, if it is pronounced against a party who has not been summoned, or if something has been omitted in the process." Indeed, such a judgment, by reason of its form, cannot pass into a final judgment, as Reiffenstuel teaches in title *De sent. et re iudic.*, § 8, according to common understanding and the canons. Moreover, not only was the form of the process vitiated, but the testimonies themselves, whether because they were false, or because they did not lead to punishment, or because they were exaggerated, were immediately to be rejected according to the law. And therefore, the unfortunate parochus strives to reduce all the accusations to nothing. Having explained these things, the unfortunate parochus adds more to the legal arguments, demonstrating that he can always appeal, unjustly, against the judgment, even if the time for appeal has passed. Nevertheless, he repeats, again and again, that he immediately, after reading the Metropolitan's judgment, stated before the Dean and Vice-Dean of Jírovlavi, that he would appeal to the Holy See; and therefore, for the reasons given, the orator requested that the proceedings be completely revoked, and that everything that had been done against him be considered as illegally done. Indeed, if the judicial inquiry proceeded as Father Zywicki recounts, the consequences are, of course, well known. For, when a judgment has been pronounced contrary to the laws and canons, it has no force, so that neither the help of an appeal

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is necessary, according to chapter 1 *De sent. et re iudic.*, nor is it necessary according to the law: "When is it not necessary to appeal?" For, since the judgment is null...

[*Latin ed. p. 132*]

132. PREMISE. It produces no effect, as the canonists here consider. Therefore, Reiffenstuel, in title *De sententiis*, n. 445, along with others, states: "A judgment which was issued contrary to the law of constitutions is, by the very law, null; it does not become a res judicata, even if it is not appealed; but if a legal error is proven, it can be retracted not only after ten years, but also after ten years, and indeed up to 30 years." Similarly, a judgment never becomes a *res judicata* anywhere if it is manifestly unjust, or if the judge proceeded through error or a false cause, because, according to chapter 9 of *Inter Catenas*, "a judgment should not be upheld if it contains a manifest injustice." As Engel states in the same title, n. 25, and elsewhere, the fact that a judgment was issued contrary to the canons and laws alone shows that, according to the words of the priest Zywicki, it was pronounced without sworn witnesses and without hearing the accused; which is so enormous that it requires no demonstration. Therefore, although it may be permissible to hold that the priest Zywicki allowed fatal errors to occur and sent a messenger to appeal, nevertheless, if the facts are as reported, he will always have a remedy against the nullity of the judgment, a remedy which can validly be invoked after ten years and directly before a higher judge. And although the objection of nullity of a judgment ordinarily does not impede its execution, nevertheless, this is not true, nor can it be admitted, in the case in which the execution of the judgment would bring irreparable damage; Reiffenstuel, *De exceptionibus*, n. 72 and 73. But if the priest Zywicki had acquiesced in the execution of the judgment, one might doubt whether any remedy or assistance would be available to him in the future. Regarding the suspension and irregularity, it has been noted: suspension does not admit of an appeal in a suspensive sense, but only in a devolutive sense, if it has already been imposed and incurred; but if, in the meantime, after the threat, but before its occurrence, an appeal is made...

[*Latin ed. p. 133*]

PREMISES. 133. Indeed, this provocation has a suspensive effect. This is clearly taught by the Pontiff in chapter 40 of *De appellat*, where the summary states: "A sentence of excommunication, suspension, or interdict, pronounced under a condition (e.g., unless Sempronius satisfies within 29 days), is suspended if an appeal is made before the condition is fulfilled." Furthermore, it appears that the priest Zywicki appealed after the imposition of the suspension, but before the fulfillment of the appeal. Indeed, according to the letters received by the Curia on the 26th, but signed by the

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priest Zywicki on the preceding day (that is, before the fulfillment of the suspension), and which are included in the records, he formally appealed, not only against the sentences, but precisely against the threat of suspension. Moreover, since he had requested in previous letters of November 14th and 21st that the case be brought before the Holy See, and in the meantime promised "not to attempt anything against himself," he appears implicitly to have appealed against the threat of censure. Therefore, and according to these considerations, he may not have incurred it. Nevertheless, there is an irregularity; since this is only incurred if the censure is violated rashly, as Ferraris notes in *irregularit.*, art. 1, no. 11; or if the censure is violated culpably, as Reiffenstuel points out in *ad tit. De senten. excom.*, no. 175. But the priest Zywicki does not appear to have violated the censure rashly or culpably, 1. because this censure, with regard to its effect, remained suspended in fact due to the appeal interposed by the priest, as stated above; 2. because the same priest, according to the truth, initially believed, although he later, terrified and confused by the Bishop's letters, doubted this, that the censure could not be imposed due to the appeal made before the Holy See.

WHAT IS OBJECTED TO THE PAROCHIAL PRIEST. But, conversely, it must be considered that if the tenor of the sentences is read, if the history of the facts and the process, carefully compiled by the Bishop, is kept in mind, and if the testimony of the Apostolic Nuncio, when questioned about this matter, is considered by the Sacred Congregation, then that priest would appear either to be lying or to be dreaming; unless one prefers to believe that he sometimes presents his own mental fabrications as if they were true facts.

[*Latin ed. p. 134*]

134. PREMISLIEN. There is found a great confusion in the writings of this priest, and furthermore, he delivers and thinks things that are not true, especially concerning the violated *forma* of the process and the illegitimate depositions: indeed, it cannot be determined whether he speaks of the first process, or the second, or of both at some time; unless I am mistaken, perhaps he includes both simultaneously. But this very confusion concerning the nature of his mind and the sad state of this priest perhaps offers some argument. Furthermore, since in matters of fact and criminal cases nothing can be concluded except from documents, the thirteen heads of accusation against the parish priest were related; these were collected from the records of the process. The process, says the Bishop, was begun on January 12, 1885, with the presence of the Bishop's commissary, the assisting notary, the accusers, and the accused; and it ended on January 15. There were thirteen witnesses, all of whom, before their depositions, took a solemn personal oath to speak the whole truth. After the offensive investigation was concluded on January 14 at 2 p.m., the accused was sum-

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moned for examination, and was challenged to respond specifically to each head of accusation, which were presented to him by the commissary, along with the names of the witnesses, or to sincerely confess his crimes, or to prove his innocence. His words, written down by the notary, were signed by the accused with his own hand. From the records it is also clear that everything concerning each head of accusation was proven by the witnesses. After the process was duly completed, the sentence was pronounced on February 26, 1885, after a description of the crimes, which is as follows: "Therefore, it is no wonder that the patron and the leading parishioners in their complaint declare that you have been exhausting everyone. Therefore, considering the crimes of extortion that have been proven against you, and the grievous burdens and the most unjust exactions in legal matters, which you confessed, with violence and curses, with which you deprived yourself of the sacred *sinis*, and considering the defamation you suffered before the court of Siena and of Maroslava, we can justly inflict upon you the penalty of immediate deprivation; and this all the more, considering your entire character and manner of speaking;..."

[*Latin ed. p. 135*]

PREMISE. ITEM No. 135. The method of acting previously demonstrated does not offer any hope that you will reconcile with the most Reverend patron and the parishioners, nor that you will be able to benefit the parishioners through pastoral works and the preaching of the Word of God. However, for this reason, we refrain from imposing the penalty you have earned, because, besides the warnings that we gave you orally two years ago and in writing, you had not yet received a canonical and peremptory written warning. Therefore, for the aforementioned and proven offenses, we impose a milder penalty upon you, decreeing: 1. Your translation to another benefice, equally or even somewhat better endowed, granting you a term of two years, within which you must obtain such a benefice, either through competition or through exchange, which must be approved by Us. If, within two years, calculated from the notification of this sentence, you do not obtain such a benefice, We ourselves, by virtue of Our office, will transfer you to a benefice even worse endowed, of which We will have the opportunity to dispose. 2. Because, on the one hand, your aforementioned and proven offenses demand the most severe penalty, and, on the other hand, there is no hope that you will labor fruitfully anywhere as a good pastor, We impose upon you a medicinal penalty, consisting of spiritual exercises, which you must complete at your own expense for 30 days in the religious college of the Most Holy Redeemer in Mosciska. The accused confirmed by letter, signed with his own hand, that he had received this sentence on March 19, 1885; but he did not appeal against it, and therefore it became final. However, even before the two years from the aforementioned sentence had elapsed, on December

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10, 1885, a letter accusing the aforementioned chaplain was presented to Me by the most Reverend Prince George Czartoryski, patron of the chaplaincy of Wiezownicensis, specifically for inhumanity towards his servant, Casimir, a 16-year-old adolescent, namely, for such a beating that caused a long-lasting illness.

[*Latin ed. p. 136*]

136. PREMISLIEN. He caused the blow, and again, the obstinacy of his spirit was demonstrated in extorting testimonies from the clergy. Therefore, by decree of December 19, 1885, I requested of the Vice-Chancellor of the diocese of Lwów, Hanczakowski, to initiate a new canonical process against the aforementioned chaplain, and I clearly explained the manner in which such a process must be conducted summarily, in the aforementioned decree. I also informed the condemned that he could appeal the sentence to the metropolitan court within ten days from the notification of the sentence. I note that the assessors of that court asked my opinion, and requested that I pronounce a sentence of deprivation against this cleric, which, however, I did not do, proceeding with lenity and paternal love towards the delinquent. The accused, within the legally prescribed term, appealed the sentence to the metropolitan court of Lwów, to which court all the proceedings, both of the first and second processes initiated against the aforementioned chaplain, together with the sentences, were delivered on May 12, 1886. After a most diligent examination of the case, the metropolitan court, in its judgment of September 14, 1886, fully approved and confirmed the judgment of the first instance. This sentence was communicated to the accused, who gave a letter acknowledging receipt of the same sentence. On October 11, 1886, the condemned appeared before me, as the Bishop stated, declaring that he acquiesced in the sentence pronounced against him. On October 17, the condemned petitioned the Bishop to change the sentence already pronounced, which had become a res judicata, so that he might remain in Wiazownica; to which petition the Bishop responded on October 19, 1886, that he could in no way grant it, but rather, he ordered the execution of the sentence, suspending it until the accused appeared by the deadline of November 15, 1886, for the purpose of obtaining canonical permission for the benefit in Wolszcza. While the Ordinary awaited his arrival, he initiated a libel.

[*Latin ed. p. 137*]

PREMISLIEN, 137, concerning the appeal to the Holy See, based on the judgment already rendered. The Ordinary indicated that he could not accept the appeal. On November 24, 1886, he requested, both orally and in writing, either that the judgment be changed, or that he be granted an appeal to the Holy See. Both requests were denied, and he was informed that, unless he complied, he would be suspended on November 26. How-

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ever, he did not appear on that day and celebrated Mass. On the same day, the parish was transferred to Thomas Blahuta, in the presence of representatives of the people and the patron, and a document was drawn up and included in the protocol, in which the condemned man wrote with his and his own hand that he considered this action to be a violation of canon law, against which he would file a complaint with the Holy See. On the evening of November 29, he appeared personally before me, the Bishop said, asking for absolution from the suspension. Although I told him that I could only consider his request if he abandoned his obstinacy, he refused to be canonically installed to the benefice in Woloszcza, nor did he wish to leave the chaplaincy in "Wiazownica," declaring that he could not do so until the Holy See resolved his appeal, which, he asserted, he had submitted through the Most Reverend and Reverend Apostolic Nuncio residing in Vienna. Having briefly stated the foregoing regarding the legality and regularity of the proceedings, it is commonly understood in law that Bishops can deprive someone of a benefice and grant it to another, "if, indeed (as Reiffenstuel states in title De r er. permut. no. 38), a serious reason requires it, or because the beneficiary is less suitable for performing the duties of this benefice, or because of circumstances in this place, etc." And the Abbot agrees in c. Quaesitum 5 of the same title, nos. 7 and 8. Innocentius in c. Nisi De renunt. Engel in the same title, no. fin.; the cited argument, cap. Quaesitum § fin., where it is stated: "If the Bishop has examined the necessary cause, he can lawfully transfer persons from one place to another, so that those who are less useful in one place may be able to exercise themselves more usefully elsewhere."

[*Latin ed. p. 138*]

138. Indeed, as is stated in Reiffenstuel, *loc. cit.*, note 39, "even if the cause is without the fault of the beneficiary," for example, "if a grave aversion and hatred arises from the people against the parish priest, so that his words produce no further effect, the people despise the divine [things], or scandal arises, etc.," as Innocent I, as cited by the Abbot, rightly observes. The reason is that the common good must be preferred to the private good, canon 39, causes 7, question 1. There, it is stated: "The utility of many must be preferred to the utility or will of one." Furthermore, it is known that a parish priest involved in serious conflicts, even without his fault, is usually dispensed from his residence for the first six months, according to Fagnanus, book 3, Decretals, chapter *Clericos De der. non resid.*, up to six months; during which time, unless the conflicts are appeased, the same six months are granted to the priest without any hope of further extension; the priest is then led to resign or to seek a change. This has been consistently maintained by the Holy See, as can be seen in Camerinen, May 8, 1785, and in Verulana, September 3, 1825, among the summaries of decrees. Likewise, the Sacred Congregation of Bishops and Regular Canons held the same

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opinion in *Alben*, concerning the removal of a parish priest unpopular with the people, on October 15, 1601, as reported by Bizzarri in his *Collectanea*. Finally, D'Annibale, in the third part, note 61, summarizes the matter in his own way: "Although the Bishop, even as a delegate of the Holy See, can transfer a parish priest to another parish for a necessary reason (chapter 5 on exchanges, Holy See, January 27, 1857, December 18, 1857, Acts of the Holy See, volume XI, note 159), such as if he causes scandal in his parish, or if the bad people hate him" (Paris, *De resign.*, Reiffens, in III Decr., title 19, note 30, Benedictus XIV, Apostolic Constitutions). Furthermore, more can be found in this sense in Zamboni, volume 4, Conclusions, Sacred Congregation of Bishops, concerning the parish priest, § 14, regarding removal and private matters. Therefore, if, for these reasons, even with an innocent parish priest, his transfer can be decreed, *a fortiori*, it can be imposed if there is a true and positive fault on the part of the parish priest. But, above all, if there is a question of his cruelty towards his people...

[*Latin ed. p. 139*]

PREMISLIEN. Concerning excessive exactions, and the fury with which someone was repeatedly struck, it appears to be sufficiently established. Nor is it permissible to doubt, after the account given by the Bishop, the proper form of the process, insofar as it was violated in substantial matters, so that it may have no value. For the witnesses heard under oath, and the accused having been summoned, besides the firm testimony of the Bishop, clearly demonstrate that the first and second sentences of Premislien, and also the sentence of Leopoli, in which the Archbishop confesses to having had all the documents and objections of the case before him, and to having examined everything properly, show that the accused accepted the first sentence of Premislien, and it passed into a final judgment; and although he was granted the right to appeal within ten days, he did not appeal. Furthermore, in that sentence, the Bishop decreed that this priest should, within two years, seek another benefice, unless he wished to suffer a forced removal after that time; and also, as a warning, for three years, the same priest would be subject to a swifter penalty of removal if the accused was found to have committed the crimes of vexation and assault. There is no valuable reason to complain of injustice. Indeed, he again fell into the faults of vexation and assault, as both subsequent sentences demonstrate. Furthermore, it seems very doubtful whether he said before the decapole and vicadeacon of Jeroslav: "I appeal to the Holy See." For in the responsive letters, both signed by Zywicki and by the dean, concerning the communication of the sentence, nothing is said about this reservation. Nor is it to be believed that either the priest Zywicki was so timid and ignorant, or the Bishop so terrible, that that priest would not know how to express the word of appeal. For we see that Zywicki repeatedly assisted his Bishop, and

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that this one, although reluctant, although hesitant, repeatedly accepted him. Finally, it may be supposed that Zywicki expressed some intention of interposing an appeal to the Holy See before...

[*Latin ed. p. 140*]

140 PREMISLIEN, being the dean and vice-dean of Jeroslavia; however, if he fails to take any action within a reasonable time, and having assured the highest Bishop that he will abide by the sentence, it would appear that he sent a messenger, seemingly to fulfill the aforementioned purpose, if it was indeed expressed. Furthermore, once the sentence of transfer has been accepted, the Bishop could rightfully execute it. For when the accused states that he wishes to comply with the sentence, the sentence must immediately be put into effect, as stated in the Glossa on chapter "Quaerenti" of the Quadrimestre de Officiis Delegatis, and by Reiffenstuel and others in the title "De Sententiis et Re Iudicandi," number 163. And even more so, because the matter concerned an exception of nullity of the sentence, which does not regularly impede its execution, as stated in the text in canon "Sicut sine" question 1 and Clement. "Ut calumniis" in De Sententiis et Re Iudicandi, with Barbosa and Reinffenstuel in De Exceptis, number 70, unless, of course, the execution, once carried out, would be irrevocable, or the matter concerns a sentence that is evidently and manifestly null; but these are not relevant to the present case. If, however, the execution of the sentence could be enforced, and consequently an appeal or complaint to the Holy See was interposed, it would have only a devolutive effect and not a suspensive effect; therefore, the Bishop does not seem to be at fault in threatening suspension, unless the accused left the parish on the appointed day. However, a suspension previously threatened and then suddenly imposed for an indefinite period, in order to break someone's obstinacy, is a true censure, not simply a punishment, as all canonists and doctors of moral theology unanimously state, as found in Reiffenstuel, title 39, book 5, Decretum, and D'Annibale, both in his "Summa Theologiae Moralis," volume 1, number 351, etc., and in his commentary on the Apostolic Constitution "Sedis," page 123; which, therefore, if violated, carries with it an irregularity; therefore, it appears that the priest Zywicki incurred an irregularity. For in chapter 1 of "De Sententiis et Re Iudicandi," if someone who has been suspended from office culpably exercises the office that has been forbidden to him by the suspension, he incurs an irregularity. Furthermore, from chapter 53 of the Pastoral, concerning appeals, an appeal...

[*Latin ed. p. 141*]

PREMISES. 141. An appeal from sentences imposed by human authority is admitted only with regard to the suspensive effect, but not with regard to the definitive effect; therefore, it was useless to bring the case of the priest Zywicki* before the Holy See, so that he might escape the effects

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of the censure and the penalty for irregularity. Nevertheless, since he excused himself with ignorance, and, having learned the truth, abstained from celebrating, the Most Reverend Fathers considered whether some leniency might be granted to him in this matter. Having stated the above, the following questions were proposed: I. Whether the opposition of nullity raised by the priest Zywicki is admissible in this case. II. Whether, and under what conditions, he can be absolved from the suspension and the irregularity in this case. RESOLUTION. The Sacred Congregation of the Council, after discussion on June 18, 1887, decided to respond as follows: To I, negatively. To II, affirmatively, after he has obeyed the mandates of the Bishop and has shown a change of heart. FROM WHICH THE FOLLOWING ARE DEDUCED: I. That the benefit of many should be preferred to the benefit or will of one; therefore, the Bishop is legally empowered to transfer a parish priest, even an innocent one, whose words no longer bear fruit among the people, who hate him, so that divine things may not be contemned, or scandal may arise. II. That it is customary for a cleric to be compelled to exchange his benefice with another, whenever a serious reason demands it, or if the cleric is less suitable to perform the duties of this benefice, or in a particular place; so that he who is less useful in one place, may be able to exercise himself more usefully elsewhere. III. That a parish priest should be compelled to resign or exchange his position, if he is involved in serious animosities, unless these animosities have been appeased after a certain time, even without his fault.

[*Latin ed. p. 142*]

142. PREMISSA IV. Quoniam translatio, etiam sine culpa, fieri potest ad bonum animarum, hoc vehementer potuit accidere in hoc casu, cum parochus accusatus et convictus esset de crudelitate erga suum populum, de exactionibus, et de ira qua saepe alium percutebat, excitando in se ipso odium plebis. V. Suspensio ab officio fit irregularis, si culpabiliter exercet actum sibi interdictum per suspensionem, quae prius comminata et subinde infligitur ad tempus indefinitum ad illius contumaciam frangendam, quia tunc suspensio non est simpliciter poena, sed vera censura.

ISOLANA DISPENSATIONIS. Die 14 Maii 1887. Sess. 24 cap. 18 De reform. In oppido Massa d'Ischia, collegiata habetur; quae quattuordecim canonicos et octo beneficiatos numerat. Hi tenentur ad recitationem divini officii juxta specialem capituli legem, ad turnum missarum conventualium, et ad aliquas privatas missas, 25 pro canonicis, 12 pro singulis beneficiatis, applicandas. Capitulum habet habitualem curam animarum, quam per unum de gremio exercet: at Episcopi est eligere inter canonicos quem dignum ad id officii putet. Quoad provisionem beneficiorum, haec est ratio: coetus nautarum, utpote collegiatae patronus, nominat ad hebdomadarias ex filiis, si qui sint, nautarum: vacantibus vero canonicatibus, Episcopus

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concursum indicit inter hebdomadarios et ad vacantem praebendam hunc eligit, qui dignior in examine evaserit. Iamvero, in temporum angustias, contigit ut quatuor canonicatus et sex hebdomadariae sensim vacarent, quin tamen posset eorum provisioni occurri. Hodie vero, quatuor adessent.

COMPENDIUM FACTI.

[*Latin ed. p. 143*]

ISOLANA: 143 priests, sons of sailors, who might be able to partially fill the vacancies in the canonical offices; moreover, the patrons had already nominated them for weekly duties; but these men refused to accept, saying that, because of the meager income they would receive, they would have to bear the most serious expenses of the expeditions, the bulls, the weekly duties, and the risk of examination, and they did not wish to undertake any of these things. For this reason, the group of sailors requested that the Most Holy Father, for this occasion only, appoint canons in forma dignum, who would not be subject to a competition, and who would be appointed before the week was over. The Bishop, when asked about this matter, after hearing the Chapter, responded by commending the prayers; and he requested that he be allowed to choose for the office of parish priest not only from among the old canons, but also from among the new ones, who had been chosen without examination. Disputatio Synoptica. What opposes the admission of these requests are, first, the laws and constitutions of the Church, and this is evident from what has been stated; furthermore, common law opposes it. Indeed, the Council of Trent, session 24, chapter 18, de reform., decreed that benefices for which the care of souls is involved should be conferred through competition. The well-known law of Pope Benedict XIV, in the constitution Cum illud, explains and confirms this. Certainly, the matter at hand does not concern benefices to which the pastoral ministry is directly and immediately attached; rather, it concerns those which, although not in the individual and specific case, are nevertheless certainly called to that office by necessity. Indeed, those who are canons are said to have the passive right to exercise this care, so that the Bishop is obliged to choose a parish priest only from their ranks. WHAT IS OPPOSED TO THESE REQUESTS. Therefore, such canonries should be considered as true benefices with pastoral duties, at least for the purpose of competition, so that the purpose intended by the Fathers of Trent would not be frustrated, when they enacted a law for the provision of parishes. Indeed, chapter 18, for this very reason, because "it is most fitting..."

[*Latin ed. p. 144*]

144. "Concerning the salvation of souls, it is necessary that parishes be governed by worthy and suitable pastors." To ensure that this is accomplished more diligently and correctly, the Holy Synod decreed that the

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aforementioned law be observed. However, if such benefices, which confer the right to pastoral care, could be granted outside of a competition and examination, inconveniences would easily arise that the Council of Trent sought to prevent through that law. For, gradually, these benefices could be occupied by clerics who are either unfit or even unworthy, and thus the Ordinary would find himself in a most difficult situation. This, indeed, could happen more easily in the case of canonries, since the canons are chosen from among those who are to hold hebdomadaries; these hebdomadaries are named by the patrons of the collegiate church, and, it seems, without examination. Therefore, if a competition does not deter unsuitable or unworthy clerics from accepting the nomination for a hebdomadary, or at least does not prevent them from advancing from a lower to a higher rank, it is quite possible that the chapter of canons will be completely filled with ignorant men. Therefore, reason dictates that, in this case and in similar cases, the provision of such benefices should not be made except through a competition. Furthermore, Gallemart, in chapter 18, session 24, *De reformis*, number 34, states: "When a parochial benefice becomes vacant due to the lay patron's right of patronage, and several candidates are presented, an examination through a competition is required among those presented, so that from among those who, after the examination, are declared unsuitable by the examiners, the Bishop may choose the one whom he judges to be more suitable among the others, and institute him, and not another." And the Sacred Congregation, in the same Gallemart, there, judged "that, among several candidates presented by the patron for a parochial benefice under the lay patron's right, the form of examination through a competition must be observed." Moreover, those who are named by the group of sailors, the patron of the collegiate church, for a hebdomadary, are to be considered as presented for the parish; therefore, it seems fitting that they should not be admitted except after a prior examination through a competition. Finally, rights acquired through grace do not stand against claims made by third parties. Indeed, if four priests are presented for a canonry...

[*Latin ed. p. 145*]

If these four [priests] were immediately promoted, this would deprive the hebdomadarians [priests serving a weekly mission] who have served in the lower ministry for several years, and who possess the exclusive right to apply for and obtain higher benefices. Furthermore, these same four canons, being added to the college, would diminish the hope and probability of others obtaining the parish office; and those admitted without application and without prior service to the church would nevertheless seem to usurp the rights of those who came before; which appears unjust in itself, and harmful to the rights of others; as one of them himself observed in the vote on this matter. Therefore, since the requested concession seems

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to be opposed by the constitutions of the church, by the most serious law of common law, and by the very reason of the law, and also by the rights of third parties, it seems prudent to proceed with the utmost caution. Moreover, the four priests who refused the nomination to the hebdomadariate appear to have been either moved by pride, or, having feigned an excuse, they were perhaps compelled by avarice, or finally, having spoken of the dangers of application, and claiming that they could not experience these dangers, they revealed their own incompetence and confessed their insufficiency. In any case, they would be considered unworthy of promotion, lest they seem to "derive advantage from injustice, or from their own bad will, and to profit by their own deceit," contrary to well-known rules of law. Furthermore, if a dispensation from application and immediate admission to the canonry were granted in this case, a harmful precedent would be set for future vacancies: for in the future, clerics might look down on lower positions, hoping to obtain a higher canonical benefice quickly and easily, and refuse the nomination to the hebdomadariate themselves.

WHAT IS FAVORABLE. But on the other hand, it must be considered that the Bishop, "de ecclesiae necessitate ac de temaci," [regarding the necessity of the church and with firmness].

[*Latin ed. p. 146*]

146. The narrow circumstances of the island recall this. Indeed, unless the grace of dispensation is granted, it cannot be hoped that vacant canonical offices will be filled: otherwise, according to the prayers of the patrons, it is greatly beneficial to both the dignity of the church and the divine worship, as well as to the suffrage of the deceased, that the number of canons be increased. Nor can the refusal made by four priests be deemed entirely unreasonable or unjust, when they were nominated for a weekly service. Since the revenues of the benefices and canonical offices of this church are said to be meager by the very patrons, and since the revenues of the aforementioned collegiate church consist of reduced masses and annual sums of 255 livres, which are paid for their obsequies; therefore, if they refuse to undertake the heavy expenses of the institution and the risk of examination for such a small income, and prefer ecclesiastical offices with dispensations, they are not to be blamed. However, the obstacles which arise from the constitutions of the church and prescribed rights, although they do not lack their weight against the granting of grace, nevertheless cannot be unduly emphasized. For if one intends to apply the constitutions and laws strictly and according to the letter, it will necessarily follow that the benefices and offices in question will remain vacant for a long and uncertain time, and the church will lack the due service, which seems a greater evil, and a partial and temporary derogation from the laws and constitutions. Furthermore, it should be noted that the form of competition in the collegiate church of Massa, established for the provision of canonical

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offices, although it may be said to be in accordance with the spirit of the Council of Trent, does not, however, descend from the letter itself: for such canonical offices are burdened with a heavy responsibility only in a broad sense and almost as a matter of potential; strictly speaking, therefore, they are not parochial benefices, and are not therefore subject to the law, as De Luca notes in his commentary on the Council of Trent, discourse 32, number 32. The danger of an unworthy election in the provision of a parish can be best avoided, because an unworthy person, whether presented by the patrons or passively called to the possession of the parish, can always be excluded; De Luca, loc. cit., number 35.

[*Latin ed. p. 147*]

ISOLANA 147 parodi, disputatio 11 et sequentes; haec omnino et absolute rejicienda sunt. Quia, "quoad eos qui a patronis praesentantur, vel alii qui promovendi sunt, non licet regulariter admitti, nec in beneficiis institui, nisi prius a Ordinariis locorum examinati fuerint et idonei reperti," ita patet ex cap. 1 *De institutionibus* in VI. Reiffenstuel *De institutionibus*, n. 13. Hoc etiam expressius cavetur in Tridentino, sess. 7, cap. 13 *De reformatione*, et, in specie et taxative ad paroecias, in cap. 18, sess. 24 citata, ubi, si legem concursu aut examinis inutilem tulisset, etiam pro iis qui ex praesentatione patronorum ius passivum ad electionem retinent, nisi eodem tempore Ordinariis facultatem excludendi indignos reservavisset. De reliqua autem, ad laesionem iurium tertiis quaesitorum, meminendum est, duo hebdomadaria prorsus silent, ideoque credi verisimiliter posse, ad promotionem aliorum obiectu non posituros, forte quia senes sunt, aut concursus periculis obviam ire recusant, aut beneficia hebdomadaria aliis praeferunt. Seniores autem canonici rem dispensationemque probarunt; ideo nihil neque ex hac parte videretur opponendum. Hisce itaque praemissis, propositum fuit diluendum dubium: An et sub quibus conditionibus canonicatuum provisioni deveniendum sit in casu.

RESOLUTIO. Sacra Congregatio, cognita sub die 14 Maii 1887, censuit respondere: Affirmative, iuxta votum Episcopi.

EX QUIBUS COLLIGITUR:

I. Concursus legem pro beneficiis, quibus animarum cura imminet, ideo prolata fuisse, quia maxime expedit ut animae fidelium a dignis atque idoneis parochis gubernentur.

II. Hinc, in vacatione paroeciarum, si plures praesentati sunt, Ordinarius illum eligit, quem prae ceteris magis idoneum in domino iudicaverit, expleto concursu.

[*Latin ed. p. 148*]

148 ISOLANA III. For the granting of a dispensation from the require-

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ment of a resident priest, it was deemed necessary to consider both the needs of that Church and the difficulties of the times; lest benefices remain vacant for a prolonged period, which places a heavy burden on the broad scope of the care of souls. For not all canons of that collegiate church undertake the care of souls, but only that one who, having been examined, is deemed more suitable by the Bishop. REGARDING A CHANGE OF WILL. On May 14, 1887. Through summary petitions. Laurentia, the widow of Joannes Mariae Fenech, from the Diocese of Melevitana, who departed this life on March 25, 1877, stipulated that the income from a certain small house and garden should be allocated perpetually to the stipends for Masses. This income amounted to 52 scudi; but since the male heirs contested the woman's disposition, claiming that a portion of the bequeathed house belonged to them, the female heirs were obliged to cede the disputed portion, and thus the income decreased to approximately 34 scudi. Furthermore, eight women, who call themselves the heirs and nieces of Laurentia, who, besides this burden from their sister, have received almost nothing, and are poor, implore that they be permitted to sell the remaining portion of the inheritance and divide the proceeds among themselves as a charitable subsidy, promising to offer prayers and other pious works for the soul of their deceased aunt at the discretion of the Bishop. SUMMARY OF THE MATTER. The administrator of the Diocese, upon being asked, reported that he had learned from the local parish priest that the accounts given by the petitioners were entirely true: that they had received almost nothing from their sister, except for a few items of very little value; that they were all poor, but that Maria Spiteri, a widow, was particularly deserving of assistance. He then added:

[*Latin ed. p. 149*]

The Bishop of Melevitan, for some time, due to a dispute initiated by the heirs of a deceased man regarding their share of a legacy, decreed that the petitioners should not omit paying the annual census for masses offered for the poor, but should deposit it with the parish priest, and that it should now amount to 68 florins. Having stated these facts, the administrator concluded that, considering the particular circumstances, he would recommend the petitioners' request, and furthermore, he believed that the sum of 68 florins should be divided into two parts, one of which should be given to the poorer woman, namely Maria Spiteri, and the other should be used to pay for masses to be celebrated.

Furthermore, it is recorded that Urban I, Pope, wrote something memorable about the goods of the Church: "These things belong to the faithful," which are offered to the Lord, and should not be used for any purpose other than "ecclesiastical purposes and for the benefit of Christian brothers, or the poor," because they are the offerings of the faithful, and the price of sins, and the inheritance of the poor. Although this is true, and in some

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sense helps the poor petitioners, and although it is also known that the Church has not refrained from selling its own sacred possessions in order to meet the serious needs of the people; nevertheless, this must be considered with prudent discretion. It is not always advisable to provide for ordinary poverty with extraordinary means, and even less to convert goods bequeathed for masses for the benefit of souls into support for relatives, contrary to the clear will of the testators.

In the matter of the testator's will, it is abundantly clear that her will is opposed to such a conversion; for, since the pious woman Laurentia left her heirs, her nieces and sisters, who are the petitioners in this case, it is clear that she could not have been ignorant of their condition and standing. And although she did not grant them the disputed house, she nevertheless excluded them from it. "The testator expressed what she wanted, and did not express what she did not want." In this case,

[*Latin ed. p. 150*]

Moreover, the woman Laurentia did not mention the names of her sisters, but instead, she called the church by their name. Therefore, in order to refute the open will of the testator, to invalidate his dispositions, even if recent and made for the good of his soul, and because of piety, as if the testator had failed in the due charity owed to his relatives and in the duties of office, it was necessary to overturn the will in response to the prayers. Having considered these matters, it was asked what should be answered to the prayers. RESOLUTION. The Sacred Congregation of the Holy Office, after deliberation on May 1, 1887, decided to respond. Read (1). AGRIGENTO, June 18, 1887. Session 25, Chapter 4, Concerning Reforms. SUMMARY OF THE CASE. The Archbishop of Agrigento, in letters sent to the Sacred Congregation, reported the following: The priest Salvator Puccio, from the parish of Bivona, in a handwritten will drawn up on December 20, 1857, and confirmed by the author's death on March 1, 1874, stipulated that his brother, the priest Alphonsus Puccio, and his mother, Carmela Sardegna, should be the heirs to the usufruct of all his goods until their deaths. Upon their deaths, the church of Bivona should succeed them, and, after selling whatever remained in the hereditary assets, should apply the entire income to alms for the Mass. He also established various bequests, among them one of 153 livres annually for the celebration of Masses, and another of 25,50 livres perpetually for the anniversary of his death. (1) When prayers are not to be granted, the petition is often dismissed with the clause "read": which indicates that the petition was indeed read, but was found to be unworthy of a response.

[*Latin ed. p. 151*]

AGRIGENTINA 151. It happened that, after the testator's death, the mother sent a notification indicating that she wished to benefit from the

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disposition of civil law regarding the inheritance; and thus, she retained a third part of the inherited assets as her own. At the same time, several relatives accused the will of nullity before the civil judge, alleging that the heir named in the will was the church of Bivona. The priest Puccio and Carmela, the mother, initially refused to accept any portion of the inheritance with these conditions, but compelled by the decree of the court, they were obliged to appear in the legal proceedings; nevertheless, as the Bishop states, they instructed their lawyer to defend the disposition of at least two pious legates. However, this lawyer failed in his duty, indeed, he adhered to the petition of the others, and the will was declared invalid both in its substantial part, in which the church of Bivona was named as the heir, and with regard to the constitution of the pious legates; while in the remaining parts, it appears to have been upheld. Carmela, the deceased's mother, as is evident from the Bishop's letter, retained the third part of the inheritance that she had initially claimed for herself: the brother, the priest Alphonsus, retained the usufruct of the remaining two parts, according to the will, but with the obligation to transfer this inheritance to his brothers and sisters after his death. Indeed, the mother, before her death, compelled by the spurs of conscience, sought to proportionally restore the two pious legates that her son had established, which the court had invalidated, according to the share of the inheritance that she had acquired, namely, for one-third; and she died without it being recorded in the proceedings to whom she left the third part of the inheritance that she had acquired from her son, whether to the church of Bivona, as her son had intended, or to others; but if one may conjecture, it is quite likely that she gave nothing to the church. Certainly, when the Bishop affirms that she gave all the goods necessary to restore one-third to the legates, it seems implicitly denied that she gave anything further. There remain two-thirds of the inheritance, which are now held in usufruct by the priest Alphonsus, but after his death, according to the civil judgment, they will be transferred to his brothers and sisters.

[*Latin ed. p. 152*]

152 AGRIGENTINA are returned. The value of the properties, which constitute these two parts, amounts to 31,450 *libellae*; to this must be added the annual revenue of 129 *libellae*. Indeed, Father Alphonsus persuaded his two brothers who are still living, as well as the sons of two other deceased brothers, and two sisters, for the third, named Carmela, did not consent, to preserve, or respectively, restore the goods of two legatees, which the testator had left. And all of them agreed to this, on the condition that they obtain from the Most Blessed Father the grace of retaining, with a safe conscience, two-thirds of the inheritance; the usufruct of which is now held by Father Alphonsus Puccio. Of the two sisters who agreed to this arrangement, one, since she is a professed religious, further requests

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that she be dispensed from the law of poverty regarding the portion of the inheritance that belongs to her. The Bishop, when asked, stated that the parish priest is not unaware of the request of the brothers Puccio, due to the judgment of the civil court, which has passed on the matter, but he desires that a compensation be imposed in favor of the Church for each of those requesting, according to the ability of each person's estate.

A SYNOPTIC DISCUSSION: FROM WHAT FAVORS THE PRAYERS OF THE ORATORS. The will of Father Puccio, in which the mother was granted only a partial usufruct of the goods, certainly appears to be contrary to Roman law. Indeed, in the original Twelve Tables of the Roman law, it was provided that the *paterfamilias* could bequeath of his family, money, or the guardianship of his affairs, and "that whatever he bequeathed, that would be the law." Therefore, prudent men rightly inferred that the widest possible freedom was permitted in the matter of making a will, and that, at his pleasure, a father could either institute, or disinherit, or pass over a son, of which there is easy evidence. L. 11 fin. ff. De lib. et posth. haer ed. inst., or of disinheritance, and I. 120 ff. De verb. si g ni f. But, since it often happened that with this very broad freedom...

[*Latin ed. p. 153*]

In AGRIGENTO, parents might abuse that supreme right; it was deemed possible for this to become the greatest injustice; therefore, jurists devised a remedy to assist those unjustly excluded or disinherited. Indeed, when they observed that a furious person could not, even according to the principles of the Twelve Tables, make a will, they declared that he who, contrary to the duty of piety, excluded close relatives without cause from the inheritance, was not of sound mind (pr. Inst., and L. 17 §. 1 ff. De inoff. test.), namely, "he was insane, because he hated nature without cause." And to invalidate a will so made, contrary to the duties of piety, they granted that action which they called a "complaint of unpiety," to those unjustly disinherited or excluded. This complaint was initially granted to all close relatives, especially if a scandalous person were placed before them; but with the passage of time, with the introduction of the law of *Falcidius*, it began to be granted only to those to whom a legitimate portion, or a part of the inheritance established by law, was to be left. Indeed, among those to whom this portion is due are also parents of both sexes and of any degree, if the testator dies without children. It is clear from Leg. i and 30 De inoff. test, and from Nov. 115 cap. 4 fin., where the emperor says: "Therefore, we decree that it is not permissible for children to disinherit their parents," or in any way to alienate them from their property, "in which they have the right to make a will," unless they have specifically named or described the reasons (for example, if the son's descendants were to inherit; or if the father had acted unjustly with the son, etc.) in their wills. And § 5: "If these things have not been observed, we decree that this will

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shall have no validity, as far as the institution is concerned; but, having invalidated the will, we decree that the property of the deceased shall be given to those who are called to the inheritance by intestacy," namely, to the heirs and others who obtain their rights by law. From these words it is clearly apparent that children who are about to die without descendants must receive a legitimate portion from their parents.

[*Latin ed. p. 154*]

In AGRIGENTO, one must not deprive one's children of their due inheritance; nor may one disinherit them without just cause; otherwise, a testament made by the children will be considered null and void, and will be annulled upon the complaint of the aggrieved party, and the inheritance will be conferred intestate, only to those legatees who remain. This clause concerning the preservation of legatees was added by Justinian, because formerly, when a testament was annulled due to the complaint of an aggrieved party, the legacies and fideicommissa also lapsed, as stated in *L. 8 § pen. I. 28 fin. ff. De inoff. test.*. It is not necessary to determine, according to Roman law, what portion should be left to parents by their children, because it is well known that this matter has not been completely explored and defined; rather, Roman jurists generally intended it to be one-third; *Reiffenstuel De testam. § XIII n. 240 seqq.*. This principle has been established by modern laws and codes, which, while fully accepting the rules of Justinian's succession, also explicitly provide for this, as in the Italian code, article 807: "If the testator leaves neither children nor descendants, but ascendants, he may dispose of only two-thirds of the property." The legitimate portion, that is, one-third, belongs to the father and mother in equal shares, and, if one of the parents is absent, it belongs entirely to the other. The legitimate portion is left by title of heir; indeed, Reiffenstuel, in the aforementioned passage, states that a testament may be declared null and void (for necessary heirs) if, by another title, e.g., as legatees or fideicommissaries, a portion is left to them that even exceeds the legitimate portion. And this conclusion is clear both from what has been stated above, numbers 403 and following, and from *Nov. 115 cap. S - ibi - "San*ctimus non licere parentibus etc. per quamlibet aliam *donationem, vel legatum vel fideicommissum vel alium* *quemcumque modum dare legibus debitam portionem."* Regarding children with respect to their parents, see *Novella, cited, chapter 4, number 415, cited (1)*. (Latin version). If the testator leaves neither children nor descendants, but ascendants, he may dispose of only two-thirds of the property. The legitimate portion, or one-third, belongs to the father and mother in equal shares, and, if one of the parents is absent, it belongs entirely to the other.

[*Latin ed. p. 155*]

AGRIGENTINA 155 In the matter concerning the priest Puccio and his

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mother, the priest did not leave his heir either a portion of the inheritance or a legacy; but only the usufruct. Therefore, according to the alleged laws, he would have followed the correct procedure in declaring the testament to be invalid, and therefore to be superseded by inheritance according to the laws, with only the legacies remaining intact. However, if the inheritance were to be distributed according to the laws, both the mother and the brothers of the testator would certainly have the right to participate in it; provided that, if there are brothers and sisters of the whole blood, or the children of cousins and second cousins, these, together with the ascendants, would succeed to the inheritance of the deceased, as stated in Nov. lib. § cap. 2, verse 2. Therefore, the civil judgment, excluding that part in which the two pious legacies were invalidated, although odious to the Church, although pronounced with bad intentions, cannot be said to be unjust in its effect and before the laws of the Romans. Indeed, it may even not be unjust before the canon law. For the canons have not established anywhere that the obligations of piety can be acquired from a will, or that invalid wills can be upheld; but rather, in this matter as in many others, they have implicitly approved of civil law. For it is known that, in those matters in which canon law does not provide, civil law supplements it. Nor should it be said here that this concerns a will made for a pious cause, and therefore civil norms cannot be applied, as stated in Relatum 11 De test., which prescribes: "We command that, whenever such a case is brought before you, you treat it not according to the laws, but according to the statutes of the Decretals, with three or two lawful witnesses required." For it could be argued that this passage, like a privilege enjoyed by wills made for pious causes, extends primarily to the fact that "the will of the deceased may be valid even if it lacks" the formalities required by civil law for a will, as Ferraris writes in v. testamen. art. 2 n. 5. But this is not to say that a will, even if invalid, even if unjust, should still be upheld: for the Church, as the avenger of all justice and the invincible advocate of charity, does not usually...

[*Latin ed. p. 156*]

156. AGRIGENTO desires, and cannot obtain, to acquire [property] through the injury of justice and piety, by depriving either party of what is due to them. Therefore, it appears that the opinion of the civil tribunal, to which the advocates appeal, could be maintained, even if a portion is taken, since the two legatees who were sent are infirm, and therefore, the advocates, as they claim, could send a messenger to the illegitimate party without causing further disturbance.

FROM WHAT IS OPPOSED TO PRAYER. However, it is necessary to consider what Reiffenstuel says in title *De testamento* (§7, II, 196) on this point, in favor of pious testaments: "A testament is valid for pious purposes, in which, in addition to the legitimate portion left to the freeborn

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heirs, a legacy is also left to the legatees, not as heirs, but by institution, according to the common opinion of the Doctors; as can be seen in Celarus, § *Testamentum*, question 6, number S. It is inferred that a testament for pious purposes is valid, in which the legitimate portion is left to the freeborn heirs, solely as a legacy or fideicommissum, and not as heirs, by saying, for example, 'I institute this or that cause to be pious'; but to my son or children, I bequeath one thousand florins, provided that this sum reaches at least the legitimate portion; because, besides the aforementioned grounds, the legitimate portion is due to the freeborn heirs by the law of nature or of nations, as written in § 1 ff. *Ius naturale*. However, the same law does not require that a portion be assigned to them as heirs; but only that it be assigned according to the disposition of the law, *Novellae* 115, chapter S, which states that in a pious testament, the law is not observed, chapter 11, *ibid.*" To this, Heineccius adheres to some extent, who, in the *Pandects*, *De inofficiosi testamenti exceptione*, numbers 55 and 56, observes that since a complaint of an unconscionable testament is very odious, it is granted only as a subsidiary measure and as a last resort; therefore, children and parents, who are heirs by any means, should not use this complaint, but rather, under the condition of L. 30 of the *Codex De inofficiosi testamenti*, and *Novellae* 115, chapter S, which the Doctors call the "expiatory" condition, which indeed is granted to children and parents in any matter, against heirs instituted, to supplement what is lacking of the legitimate portion. With these things noted, it is necessary to dispel [the presumption].

[*Latin ed. p. 157*]

AGRIGENTO. A question was raised concerning whether and in what manner assent should be given to prayers in a particular case. RESOLUTION. The Sacred Congregation of the Council, having considered the matter on June 18, 1887, decided to respond: Affirmative and with the following understanding. FROM WHICH THE FOLLOWING MAY BE GATHERED: I. Sons, who are not about to die and leave behind descendants, are obligated by law to leave a legitimate portion to their parents, or to disinherit them for a just cause; if they fail to do so, the will may be invalidated by a complaint of an unconscionable will. II. This remedy of the law was introduced due to the abuse of the broad freedom that parents had previously enjoyed regarding the full disposition of their property. III. Those legislators who devised the remedy of the unconscionable will erred, because they unjustly hated nature, by excluding those who have excluded close relatives against the duty of piety. IV. In the case presented, the testator did not leave a legitimate portion to his mother by title of inheritance, nor even a legacy of property, but only the usufruct; therefore, according to civil law, the mother, sisters, and brothers were able to succeed to the sad inheritance of the deceased. LYCIUM. DECREE. On May 14, 1887. Session 25, chapter 9, concerning Reforms. SUMMARY OF THE CASE. The present question

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was proposed in February 1886 under the following formula: Whether the judgment of the diocesan court should be confirmed or invalidated in the case (1). However, Horatio Pedio, who had already appealed the judgment of the court, did not find this resolution acceptable, and therefore... (1) See Volume XVIII, page 531, so that you may recognize the nature of the case and whatever divergence there was at that time.

[*Latin ed. p. 158*]

158. LYCIEN. Immediately, through the patron whom he had secured from the beginning, he requested a new hearing, and petitioned that the case be considered from a new perspective. He declared that he had entirely refrained from sending a messenger to the curia regarding the judgment, and that he would solely raise the question concerning the restoration of his right to access the church through the inner door, and to use the oratory. For this restoration, or for a new concession favoring himself and his sons, he promised to do whatever was necessary for the adornment and maintenance of the church. *Disceptatio Synoptica.* Sufficient has been said in the preceding proceedings regarding this petition; those who favor Horontio separately recount their arguments in their allegations. One, for example, defends the restoration primarily because, since the Pedio family obtained from the Palmieri patrons the right to use the oratory and access the church, and has peacefully exercised this right for many years, a title to maintenance seems to arise. Indeed, he cites *De Luca, Discept. 5 De praeem. n. 2*: "Even in those cases in which, due to legal obstacles, regular possession is not established, the title is still operative and requires maintenance, when a very considerable period of time has elapsed." Nor can the sodality raise any obstacles, because its admission to the church was under the express condition of not hindering the use of the oratory, and access through the inner door of the church, by the favor of John Palmieri, his family, and the inhabitants of the house. Furthermore, the patron does not believe that the services that would be provided to the church through these concessions would be objectionable. For the rights of use and access are not services owed to the church, but rather a part of the honor due to the patron; therefore, they are by no means objectionable, but can be granted and transmitted along with other rights of patronage. Moreover, in the hypothesis that the restoration is not possible, but a new concession of these rights is granted, the patron, attentive to the will of his client, will—

[*Latin ed. p. 159*]

LYCIEN. 159, by promises, and also by the benevolent practice of the Sacred Congregation of the Council, of which the causes of Camerino are witnesses. The Indult of August 2, 1856, and the Decree of August 24, 1850. The other advocate, however, insists entirely on the question of the right or restitution; and he considers it so just that he deems it almost superfluous

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to raise the question of grace or of a new concession. The order of his argument is as follows: The brothers Palmieri, by a public instrument of May 13, 1835, reserved the use and access to the church for themselves and for the inhabitants of their house: moreover, this agreement conferred a good right, both in respect of possession and in respect of claim, and it cannot be revoked in view of the decision of the Sacred Roman Rota, 262, n. 11, cor. Motines. However, by an instrument of November 9, 1836, the same brothers Palmieri ceded the house attached to the oratory, with its rights of access to the church and of use, to the family of Pedio. Therefore, this family succeeded to the rights of the brothers by a public and solemn agreement. It cannot be objected that the brothers Palmieri, who were illegitimate possessors of that house (which, by the force of French laws, had been assigned to them at the beginning of the century), could not have legitimately transferred it to others: for the advocate replied that, according to an apostolic rescript of June 21, 1841, everything had been healed: "provided that the brothers Palmieri ask for absolution from the acquisition of the house and from all other matters... and that all omissions are benignly condoned... Furthermore, the cession of the church to the sodality of Saint Elizabeth was benignly approved." Indeed, those agreements, in which the disputed right was reserved, arise from the very contracts which the Holy Father has strengthened with all his authority and with his full sanction and approval. Those subsequent agreements, added to the first agreement and to the subsequent cession, must be considered to have been entirely approved, since the Supreme Pontiff has not expressly declared his mind to the contrary with regard to them. But even if all of this were to be considered null and void, still the restitution requested by Horontio Pedio would be due to him, because he is aided by a very long period of possession, which takes the place of a title, and which establishes a perfect prescription. For...

[*Latin ed. p. 160*]

160. LYCIENSES. From the year 1836 until the year 1880, the right in question was continuously possessed, and neither the sodality nor ecclesiastical authority opposed it, and it remained peacefully. Indeed, all the bishops of Lycienses, as legitimate, constantly acknowledged that right in the acts of the sacred visitation. The sodality, as the first judge himself confesses in his sentence under the second question, bore the use of the *ianua* and other things with a good spirit. It cannot be said that the right in question is imprescriptible. For it does not touch spiritual rights; and, what is more important, it cannot in any way be compared with the prerogatives and rights of the parish priests and bishops, such as, for example, the right to tithes and jurisdiction, which, however, can be prescribed after a fixed period of time, as Schmalzgrueber states in *De Praescr.*, title XXV, number 82. With these things noted, the purpose was to resolve the doubt as to whether there is a place for the reintegration of the right to access the

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church through the internal *ianua* and to use the altar in that case.

RESOLUTION. The Sacred Congregation, having considered the matter on May 14, 1887, decided to respond: Regarding the *ianua*, negatively; regarding the altar, however, the petitioner may enjoy it, according to the terms of the rescript of June 24, 1841, but with all its conditions fully observed.

[*Latin ed. p. 161*]

161 LETTERS from His Holiness Pope Leo XIII to the Venerable Brothers, Anthony, Archbishop of Goa, Primate of the Patriarchate, and to all the Archbishops and Bishops of the Oriental Indies, Goa. LEO PP. XIII. Venerable Brothers, greetings and Apostolic blessing. Your letter is all the more pleasing to Us, inasmuch as We are in need of consolation in this most grievous condition. We have learned from it, as We certainly expected, that you are greatly rejoicing in the established Catholic Hierarchy in the Oriental Indies; and that you have received with great willingness all that We decreed last year, for the firmer foundation of the sacred work in that vast region. Therefore, We gladly accept the sentiments you have consigned in your common letter, and all the more gladly, because they signify a great and concordant will. For what can be considered more important, or more conducive to the public good, than concord and mutual charity? Especially among those who labor together in the cultivation of the Lord's vineyard, who toil in the same cause, and whose labors are sometimes rewarded by the same Lord. Therefore, Venerable Brothers, We congratulate you on this excellent achievement; and We trust that your virtue will not only enable you to maintain it steadfastly within yourselves, but also to defend it diligently throughout the entire order of the priesthood. And with regard to the priests, We have received with approval what your common letter confirms, namely, that you intend to devote special attention to ensuring that your clergy are imbued with doctrine and virtues which are essential. This is a most holy and supremely useful purpose; but its attainment requires that seminaries be multiplied, in which students, especially from among the indigenous population, may be trained for the hope of the priesthood. From these schools of sacred warfare, if wise discipline is added, under your guidance, helpers for your labors will not be difficult to find, and men of industry, such as your times require. For We are not unaware that the labors of you and your priests extend over a vast and almost limitless field. You have a large number who desire the constancy of your care; you have an infinite multitude of souls yearning for the light of the Gospel, which implores and demands your mercy. Persevere, Venerable Brothers, in sharing your charity with both groups, and, as far as it is in you, strive that these people, illuminated by the rising sun from the east, may be freed

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from the darkness of superstition, and may embrace the true light.

[*Latin ed. p. 162*]

162 Let the letters shine forth, which enlighten men. This task, certainly weighty and laborious for many reasons, may God grant you success. We indeed both ardently desire and earnestly pray for this. In the meantime, may the blessings of heaven attend you, and as a testament of Our greatest benevolence, We impart to you, Venerable Brothers, and to your entire clergy and people, Our Apostolic blessing in the Lord. Given in Rome, at Saint Peter's, on the 6th of October, in the tenth year of Our Pontificate. LEO XIII, POPE. FROM THE HOLY CONGREGATION OF THE COUNCIL OF WARSAW. Regarding a dispensation for marriage. On May 14, 1887, Session 24, Chapter 9, concerning reforms. On May 24, 1874, in the parish church of All Saints in Warsaw, Vincentius Berkus and Iosepha Sowinska were married; but in the month of December of the year 1879, they separated from each other. The reason for this is explained by the man in a suppliant letter sent to the Warsaw consistory concerning the validity of the marriage: - there - "Attempts (of consummation) from both sides were made repeatedly, but always ineffectually. When our efforts to physically consummate the marriage appeared to be fruitless, and for this reason aversion and exasperation followed in our relationships, I decided, although I consider myself poor, to seek the advice of doctors." And indeed, I consulted some, especially military doctors, who, having learned all the circumstances, even the smallest, of our conjugal life, judged that our attempts would never be crowned with the desired outcome, that there was a disproportion in our genitals. COMPENDIUM OF THE FACTS.

[*Latin ed. p. 163*]

WARSAW. 163. They were of the opinion that this condition – this vice – had preceded our marriage, that it was organic and natural, and that it could not be cured by any medical or surgical means, and finally, they were of the opinion that any further conjugal life and repeated attempts could have a very bad effect on both my health and that of my wife. > Therefore, the husband requested that the marriage be annulled, which was done at the beginning of the year 1880. Then, the plaintiff, after being questioned by the defender of the marriage, testified under oath as follows: "1. Regarding the consummation of the conjugal act with my wife, perhaps I only approached her for the first time a month after the celebration of the marriage; so late, because my wife always renewed her requests with prayers, and afterwards she did it with aversion, and every time I wanted to consummate the marriage, she resisted, saying that she could not bear me. 2. During the time of our conjugal life with my wife, I asked her at least once a month for the fulfillment of her marital duty, but she always resisted, and never allowed me to consummate the marriage. Finally, in the

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year 1877, when I, being a soldier, was temporarily dismissed from military service and recalled to the barracks, my wife, pitying me, manifested her willingness to consummate the marriage, and I actually tried to do so, but because, due to the anxiety caused by my recall to the barracks, I ate nothing all day, and for this reason I was too weak, I was unable to consummate the conjugal act, even though my wife was willing to submit to me. 3. 4. 9. I answer in general that the cause of the unconsummated marriage was not any infirmity or disease, but the aversion and repugnance of my wife; the arguments for this matter are not available to me, but I can prove through witnesses that she openly said that she could not live with me; indeed, even before the celebration of the marriage, she told me that she would leave the altar, because she did not want to be my wife. We lived together until December of the year 1879. Indeed, I withdrew from her, because I was weary of her constant aversion, but until now I was patient, hoping that my wife would change her feelings towards me."

[*Latin ed. p. 164*]

164 VARSAVIEN. This woman, being questioned, responded: "To points 2 and 3. Immediately after the celebration of the marriage, I went to the home of my husband, and I began to live with him, but for several years we did not come to the marital act; and although he sometimes requested it, he readily yielded when I dissuaded him. Furthermore, my husband alienated my affection for him through his harsh manner of proceeding, his rustic way of living, his bad treatment of me and my mother, and also through his constant suspicion, as if I were living dishonestly; all of which affected me badly towards my husband, so that I never had the intention of consummating the marriage with him." In the year 1877, my husband, having been temporarily dismissed from the military, was called to actual military service. Wishing that he might leave without suspicion of my innocence, I encouraged him to have marital relations with me, and in this way I persuaded him that I had remained a virgin until then. And indeed, he attempted to do so, but although I did not offer any resistance, and he tried, he was unable to complete the conjugal act, and he emitted his seed outside of my body. This happened repeatedly over time, whenever he attempted to consummate the marriage without any resistance from me." To point 7. I still remain in the state of virginity, and I do not doubt it. Because I desired to assure myself that my virginity remained intact, I allowed my midwife to examine my body, who confirmed that I had remained a virgin until then. Furthermore, I declare that I am prepared to submit to a medical examination to prove the truth, and I request that this examination be ordered by the court, since it is I, and not my husband, who should accuse the nullity of our marriage. "The seventh witnesses, both men and women, having been questioned on both sides, all testified with one voice in favor of the couple. Then, the matter of the physical

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examination of both parties, and first of the woman, was brought up; for which purpose two doctors, three midwives, and a matron were delegated, according to the instructions of the Sacred Congregation [Consilium de Matrimonii Impedimentis et Nullitatibus]. Everything was carried out in accordance with the law, and the midwives, as well as the doctors, testified without hesitation to the integrity of the woman.

[*Latin ed. p. 165*]

WARSAW. 165, and after a unanimous judgment, they declared that she was not afflicted with any defect that would impede the consummation of the marriage. The man was examined by two physicians who had previously examined the woman, and by another newly appointed physician; and all three, with one voice, judged him to be virile. When asked to which cause they would attribute the lack of consummation of the marriage, one, Vojcikiewicz, stated: "The delicate constitution of the body of Iosepha Berkus is an impediment to the consummation of the marriage." Another, Bondy, stated rather: "Based on what I have observed in the physical examination and in the report I have received, I cannot attribute the lack of consummation of the marriage to Vincent Berkus... From the reports of the obstetrician, nothing appears that would persuade me that Iosepha Berkus suffers from any physical defect that would impede the consummation of the marriage; therefore, I conclude that the lack of consummation of the marriage did not proceed from a physical defect in Iosepha Berkus, but, as I believe, from nervous and psychological conditions, or from mutual or unilateral aversion." Finally, the third, Bieganski, who had examined the man alone, added: "He is perfectly constituted; therefore, if the marriage between the Berkus spouses has not been consummated, this proceeds either from a defect, or from a fault in the body of Iosepha Berkus;... or, if these defects and faults have not been found in the examination, and the marriage has not been consummated, then it must be admitted that this proceeds from some psychological cause existing in either of the spouses." With all of this considered, the archiepiscopal consistory, on July 11, 1885, did not recognize the nullity of the marriage; but, considering the aversion that exists between the spouses and their relative age, for the man is almost 40 years old, and the woman is almost 30 years old, the petitioners were referred to the Holy See, so that they might request a dispensation from the valid but unconsummated marriage. At the Sacred Congregation, the matter was discussed thoroughly; indeed, with the opinions of the Theologians and Canonists. The Theologian judged that there were sufficient reasons for a dispensation from the valid but unconsummated marriage; and therefore, that nothing stood in the way of consulting with His Holiness regarding

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the dispensation.

[*Latin ed. p. 166*]

166. VARSOVIA. The canonist also considered that the acts demonstrate the existence of an impediment, whether absolute or relative, between two spouses, and that it is necessary to consult with the Most Holy [Father] regarding a dispensation from a marriage that is valid but not consummated, with some condition. However, the defender of the sacred bond endeavored to prove that the spouses were capable, even relatively, and had entered into the marriage with the intention of procreation; and that they had lived together in the same marital bed for more than five years. With these premises, the purpose was to resolve the doubt: Should the Most Holy [Father] be consulted regarding a dispensation from a marriage that is valid but not consummated in this case?

RESOLUTION. The Sacred Congregation of Councils, having knowledge of the matter, on May 14, 1887, decided to respond: Affirmative.

ALEXANDRIA. CONCERNING PAROCHIAL RIGHTS AND APPEALS. June 18, 1887. Session 14, paragraph 9, and session 24, paragraph 12, concerning reforms.

SUMMARY OF THE FACTS. In the town of Feliz ano, formerly subject to the Diocese of Casale Monferrato, but now to the Archdiocese of Alexandria, there exist two parishes, namely, the parish of Saint Michael and the parish of Saint Peter, which do not have a separate and distinct territory, but are divided from each other by houses and families. In order to prevent discord in this matter, a special agreement was also legitimately established between the pastors from the year 1674. But, in addition to this agreement concerning the division of territory and subjects, other agreements have gradually been added, both concerning supplications, as well as concerning other sacred functions, whether performed in common or separately, and thus, affairs have proceeded peacefully for a long time.

[*Latin ed. p. 167*]

ALEXANDRINA, 167. In these last years, two pastors entered into heated disputes: for the pastor of St. Michael's claimed to have a preeminent position, and therefore he was displeased with the Bishop's decree, by which a title of "Prefect" was granted to the other pastor, which he considered to be solely his own; furthermore, he insisted on the municipal chapel being under his jurisdiction; the pastor of St. Peter's, however, could not arbitrarily institute and celebrate sacred functions in his church, but due respect must be given to the church of St. Michael's; moreover, he wished to establish a customary schedule regarding the times for Masses and sacred functions on feast days, so that they would be celebrated at different hours, in order to avoid any disturbance. Finally, he refused to allow certain sodalities of the other parish to enter his church, because

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they displayed emblems that were not pleasing to him. Furthermore, it had been the custom until then that each pastor would erect an altar during the procession of the Body of Christ, and that one pastor would offer the Blessed Sacrament to the other. However, the pastor of St. Peter's used to place his altar under the portico of the municipal palace; but, as was the custom at that time, the magistrate forbade this to be done any longer; therefore, the pastor of St. Peter's refrained from erecting an altar, and wished to have the procession proceed within his own church and the nearby church of St. Peter's, and that the exchange of the Blessed Sacrament should take place there. The pastor of St. Michael's, however, maintained that the altar should be built outside the church, even if it were elsewhere, but not near the municipal portico. Thus, a new chapter of disputes arose. With the rivalry increasing day by day, the pastor of St. Michael's was the first to go to the court, recounting the disputes and requesting that nothing be changed. When the Bishop questioned the other pastor, he presented his complaints, which were also rejected; and thus, this happened again and again. However, neither reached any special or definitive conclusions, so the Bishop himself took up the complaints of both parties and proposed questions to himself, and on May 16, 1883, he issued the following decision:

[*Latin ed. p. 168*]

ALEXANDRIA

1. The church of St. Michael does not enjoy true superiority over the church of St. Peter.

2. No one among the parish priests can, by his own authority, reject someone who is able or ought to attend general processions.

3. At St. Peter's, there must be a pause and a change of person administering the Holy Sacrament.

4. It is permissible for any parish priest to establish, independently of another, any pious exercise for the benefit of his parishioners.

5. By common agreement, the hour for more solemn functions on a holy day of precept should be established.

6. Municipal buildings are to belong to the parish to which they formerly belonged.

7. The title of "Praepositus" cannot be challenged by the parish priest of St. Peter.

The Metropolitan of Vercelli, to whom the parish priest of St. Michael appealed after a decision by the Bishop, rejected the same parish priest, saying that he did not possess a true judicial sentence issued by the Bishop of Alexandria. The parish priest, meanwhile, appealing to the Holy See, requested that either the same matter be brought before him, or that the Archbishop be compelled to pursue the appeal, or that the Bishop be or-

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dered to institute a formal judgment to ensure justice. The Bishop refused to institute a formal judgment, stating that he had issued a true judicial sentence, which had become a matter of judgment, because the parish priest of St. Michael had, at an inopportune time, interposed an appeal before the metropolitan court.

A Synopsis of the Dispute.

First of all, the question was raised whether the decision of the Bishop of Alexandria was a true judicial sentence, or an extrajudicial decree. For if the latter were the case, discussion of the legitimacy of the appeal would be almost useless. It is advisable to hear the clear opinion of St. [Thomas Aquinas], who, in his lectures on the title "De appellatione," book 2 of the decrees, poses the question to himself in this way: "Whether, indeed, a fatal error harms an extrajudicial matter in the same way that it harms a judicial matter..."

DEFENSE OF THE PARISH PRIEST OF ST. MICHAEL.

[*Latin ed. p. 169*]

ALEXANDRIA. "169 tentiae"; to which he responded: "Undoubtedly, a delay beyond the prescribed term is so detrimental to the party adversely affected by the judge's decision that no further ordinary legal remedy is available to that party. For a judge's decision, after the expiration of the prescribed term, becomes a res judicata, which is held to be true.... However, a different situation arises in the case of an extrajudicial complaint; in this hypothesis, even after the expiration of the prescribed term, although the remedy of appeal may no longer be available, and although the act against which the appeal was not brought may continue in its possession and in its presumed legal value, the party adversely affected still has recourse to the remedy of common law. This remedy consists in the fact that the party adversely affected may bring a lawsuit against the act itself, so that the judge may declare it to be of no legal value...." This theory is based on the disposition in chapter 5 of this work, and also in chapter 8, section 6, where it is expressly stated that the party who has abandoned an extrajudicial appeal has recourse to the remedy of common law." Indeed, if one considers the complaints of the parish priests in this case, which the Bishop has dismissed here and there, as noted in the aforementioned document, everything is clearly lacking that constitutes the very essence of a legal proceeding. For, in the first place, there is no record of any summons of the parties to appear in court, nor of any judicial session for the discussion of questions and other legal matters; moreover, the conclusion of the parties in the case, and even the very contestation of the issue, are lacking, as can be gathered from the very beginning of the aforementioned judgment. Therefore, it is not without reason that the parish priest, Michael,

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complains, since the judge has presented him with certain questions to resolve that do not correspond to his intentions, and which are either voluntarily admitted by him, or are only mentioned incidentally. To all of this must be added the lack of formalities that should have been strictly observed in the pronouncement of the judgment, if a judicial decision had actually been rendered, as Reiffenstuel states in book 2 of the Decrees, title 27, number 58 and following: "When the parties have concluded the case.... it is necessary, first of all, that the judge, before pronouncing the judgment, should summon both parties in dispute for a certain day to hear..."

[*Latin ed. p. 170*]

170 ALEXANDRINA rendered a judgment; and that either through a threefold citation, or at least through a single peremptory one. The text is found in L. "Ea quae C." Regarding how and when a judge should pronounce a judgment, etc., where it is stated that "a judgment pronounced against an absent party, who has not been duly summoned, is considered null and void"; and in L. "Consentaneum C." in the same place, and in L. "Be unoquoque" in the sections concerning matters already judged, with similar cases. Secondly, it is required that the final judgment be reduced to writing; and after it has been written, the judge, and not another, must pronounce the recitation of the written judgment. Thus, as is expressly stated in chapter 6 of this work, and in book 2, chapter concerning judgments recited briefly... Thirdly, it is required that the judgment be pronounced by a judge who is seated, and not standing or walking, as stated in chapter 6 of this work. It is added there that if the final judgment is not read by the judge, or if it is pronounced while he is standing, and not seated, it is entirely without weight. The statements above concur with numbers 29 and 30, as stated previously. Fourthly, it is required that the judgment be pronounced by a judge who is not seated in any manner, but seated before the tribunal. "Indeed, no trace can be found in the matter concerning the observance of at least one of the aforementioned formalities; furthermore, it does not even appear that the aforementioned decision was duly announced, since it was sent to the parish priest, Saint Michael, not by a messenger, but by a public distributor of letters. Given these circumstances, it also seems to be demonstrated that, although the hypothesis of a true judicial judgment might be admitted to a certain extent, the same would entirely follow regarding the definitive termination of the disputed appeal. For, if the matter concerns the time in which the appeal must be filed before the judge from whom the judgment was rendered, the opposing party could rightly urge that the other party first demonstrate on what day and before which official the aforementioned judgment was recited by the judge seated before the tribunal, since it is clearly stated in the "Authorities on Appeals" and in the section "Within what time, etc.," and in canon "Anteriorum" 2, question 6: "All appeals can be filed within a period of ten days from the recitation of

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the judgment."

[*Latin ed. p. 171*]

ALEXANDRINA 17f: To the judges, it should be presented by those whose interests are involved. This agrees with chapters 13 and 15 of *De Sententiis et Re Iudicandi*. If, however, the matter concerns the time within which the same appeal must be pursued before the judge, the opposing party may also be urged to present the Apostles, to whom this fixed time is assigned, since common law does not establish this. Saint De states: "It is certain that the presentation of the appeal to the superior judge is essential for the prosecution of the appeal. Canon law does not determine these fixed terms, but leaves the matter to be determined by the judge before whom the case is heard. Thus, in chapter 33 of this work and in Clement. 4 of this work, it is stated that the judge before whom the case is heard must determine the time within which the appellant must present the letters of appeal to the superior judge." Furthermore, any sentence, whatever it may be, which is contrary to the laws and canons, produces absolutely no effect, and the matter remains entirely within the integrity of the laws, so that neither the assistance of an appeal is necessary, as is clearly stated in L. Si cum inter te Cod. When it is not necessary to appeal, and in chapter 4 of *De Sententiis et Re Iudicandi*, and is extensively demonstrated by Reiffenstuel in title *De Sententiis et Re Iudicandi*, numbers 70, 71, 72, 115, and 117; and if neither the judicial order is maintained in the matter, nor is the recitation of the sentence, nor is any summons issued to the absent parties to hear this very recitation, then, of course, the point concerning the completion of the appeal has been entirely removed. Therefore, if even these things were postponed for a short time, it does not mean that the victory was given to the parish priest of Saint Michael. For it is certainly not doubtful that this appeal was presented at the appropriate time before the judge before whom the case was heard, after the letter from the Vicar General, which was written on May 23, 1883, and given to the same parish priest who was appealing. It is also undeniable that the parish priest of Saint Michael delivered the records of the case to the Vercelli Curia, and that he assisted the Archbishop, as has already been stated, in presenting the appeal before the judge to whom it was to be submitted. However, this, the same parish priest asserts, took place only a few days after the date of the sentence, and he also presented a copy of the petition, by which he informed the Archbishop.

[*Latin ed. p. 172*]

172 In ALEXANDRINA, towards the end of the month of May 1883, the petitioner formally requested to have an appeal heard and to present arguments in the matter of the appeal. Given this, it is irrelevant that the Archbishop did not wish to hear the appeal, since the matter concerned a

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decree and not a judicial sentence; in the present hypothesis, the error of the judge would be demonstrated, which cannot harm the parish priest. However, as I shall address the matter, I do not believe that the points mentioned above, which clearly demonstrate either the nullity or the non-existence of the sentence, should be overlooked. For, if the sentence is either null or non-existent, as demonstrated above, a contradiction would arise in the terms, if one were to speak of its confirmation: since nothing null possesses any qualities, cap. Ad dissolvendum 13 De desp. impub. joined with the Glossa § "Legitime accusari"; and nullity and non-existence are the same, L. Duo sunt Titii ff. de Testament, tutel. with similar texts, and the text in L. Si expressi m. De appellat. Furthermore, the defender made some observations regarding the individual articles of the asserted sentence, with the intention of demonstrating the impossibility of confirming said sentence, not only from an external point of view, but also from an internal one.

DEFENSE OF PARISH PRIEST S. PETRI.

However, the patron of the parish priest S. PETRI, with certain observations, of which some have already been mentioned above, and others will be discussed later, argues that the Bishop's decree possesses the nature of a judicial sentence, and furthermore, that it was appealed against at an inappropriate time and in an inappropriate manner. Indeed, he stated, the matter concerned the use of churches in the Diocese, the celebration of the sacred rites, their form and time, public prayers, their order and place. It is truly the case that in matters concerning precedence, processions, and other sacred functions, everything must be referred to the judgment of the Bishop, so that, being truly informed of the state and customs of his churches, he may avoid scandal, as the Council of Trent decreed in session 25, chapter 13, and Barbosa n. 7 and de pot. Episc. par. 3, paragraph 78, number 6, and the Rota approved.

[*Latin ed. p. 173*]

ALEXANDRINA, decree 173, number 85, paragraph 9, recently cited, and in Theatina, in the collection of important decisions, June 4, 1674, section "Posito," and March 4, 1675, section "fin," by Rondinino. It is therefore not surprising that, according to common jurisprudence, Bishops can, indeed, not only through judgment, but also summarily, without any form of judicial process, resolve such matters. Thus, Ferraris, in the aforementioned work, number 1: "The Bishop can resolve controversies concerning funerals and processions with a brief intervention, summarily, plainly, and without noise or the appearance of a judgment." Sacred Congregation of Councils, in the collection of ecclesiastical laws, page 1, chapter 8, number 18. Companion in Diverse Canon Laws, rubric 12, chapter 13, number 10.

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Armand, in the additions to the reception of the laws of Navarre. Nor is it otherwise, as the Sacred Rota states in decree 305, number 25, page 18, volume 1, recently cited. Especially in cases where the reason for avoiding ecclesiastical disturbances and the scandal of the people advises it, as is stated there and throughout the writings of learned Doctors. Therefore, the advocate rightly concluded that the Bishop, in order to remedy these evils, had issued a judgment that was being impugned. He also states that this judgment should be confirmed by the Sacred Congregation, both because there has never been a legitimate appeal from it, and because it is supported by intrinsic and honorable reasons. He proves that there was no appeal interposed because neither the adversary himself, although repeatedly urged to initiate the act of appeal, was able to designate a date, nor to define the terms of it. Therefore, the Prefect rightly rebukes both the superiors for lying, asserting that they had interposed an appeal, and this is especially evident because they contradict themselves, assigning one day, May 23rd, and then another, May 25th. Furthermore, the act of appeal is lacking. However, "the rule is that the appeal must be interposed either by the appellant himself or by his legitimate procurator, in the same documents of the cause and before the same judge who pronounced the judgment... therefore, a clandestine extrajudicial appeal, or even one made in different documents, is not considered, nor does it avail." Cardinal De Luca, on judicial matters, discussion 37, number 9.

[*Latin ed. p. 174*]

174 In ALEXANDRINA, when a patron appeals, the appellation is admitted only orally, and immediately after the sentence is read; it is not admitted after a delay, because in that case, the written appellation cannot be considered. *Argumentum*, fol. 104 ff. 2, (49, 1), concerning appeals. – There, it is stated: "The documents presented in an appeal must indicate who issued them, against whom, and concerning which sentence. But if someone appeals in court, it will be sufficient if he says: 'I appeal.'" And since the speaker is discussing the validity of the appeal, he observes that, if it were valid, it would have been invalidated by the lapse of time; indeed, the judgment concerning the vocation was not even initiated within the year after the sentence was pronounced. Furthermore, "he who neglected to submit the case to another judge within the first year does not even have the benefit of another year for submitting the records." *Devoti Inst.*, I, 3, title 15, § 14. Concerning the disputed priority, it is observed that the church of St. Michael was excessively favored over the church of St. Peter; and since the true priority cannot be denied based on the presented documents, it is permissible to presume that the other church has priority, unless it is proven that it belongs to a special right; *Rota* in decisions, 2089, no. 10 seqq., *cor.* Coccino. It cannot be admitted that the church of St. Michael has priority based on order or greater dignity, because this is

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not demonstrated in the matter. Indeed, the only reason presented for this is that the church of St. Michael almost always initiated public processions. But this has been refuted by the alleged facts; from which the speaker deduced that one parish does not in any way prevail over another, nor does one pastor prevail over another. Nor can the church of St. Michael claim greater dignity on more solemn festivals, because the pastor of St. Peter celebrates them at his discretion. Nor does the church of St. Peter diminish the fact that it does not always expose the Sacrament of the Eucharist, or that a legitimately established sodality was not attached to it, or finally, that the feast of the patron is celebrated in the church of St. Michael.

[*Latin ed. p. 175*]

ALEXANDRINA 175. For if, at some time, the custody of the Holy Eucharist was interrupted, the cause of this was a lack of funds; however, the sodality was legitimately established on November 27, 1838, by the decree of the Bishop. If the feast of the patron is celebrated in the parish of St. Michael, the patron states that this is of no consequence, since it frequently happens in other places that the feast of the patron is celebrated not in the cathedral church, and thereby the dignity of the latter suffers some detriment. Indeed, he continues, there are arguments which rather demonstrate the preeminence of the church of St. Peter. For it is established beyond all doubt by history that the church of St. Peter was founded almost two centuries, and the parish forty-four years, before the founding of the other church and parish. Indeed, common law grants a more honorable place to the older institution, as stated in *Glos* and *Rota decis.* 320, n. 1 seq., p. 11, *rec.*, and elsewhere, *Papien.* Furthermore, it is added that in a solemn assembly of pastors convened in 1674, when both pastors were to be named, "the former always holds the place," namely, the pastor of St. Peter. This, however, is held to be of great value as an argument for preeminence, as taught by Pignatell., *tam. 4, cons. 198, n. 2*, *Rota in decis.* 483, n. 7, part 5, vol. 2, *dec.* 242, n. 14, part 16, and *dec.* 596, n. 3, part 18, vol. 2, *rec.*. And so, even when the judgment was mild towards the opponent, and while declaring the churches to be equal, it did not refuse to acknowledge the church of St. Michael as the first among equals. Turning to the second article, the patron observes that it is not permitted for the pastor to remove any sodality from public prayers "if its banners and vestments display something new that is pleasing to him, provided that it pleases the Bishop," *arg. Trid. sess. 25, cap. 6, de reform.* Regarding the third point, the speaker states that he has not been able to understand why the pastor of St. Michael, in a matter that does not affect his own benefit, nor detracts anything from him, but concerns only the sacred decorum and the dignity

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of the church, should object.

[*Latin ed. p. 176*]

176 In ALEXANDRINA, and concerning the judgment of the Bishop, "to whom it pertains to determine which churches ought to be visited in processions, etc." Barbosa, *De Officiis Episcopi*, allegation 78, numbers 1, S, and following. Furthermore, he argues that no reason can be assigned why the parish priest of Michaelis should be able to prevent another parish priest from establishing, independently of anyone else, a pious exercise beneficial to his parishioners within his own church. Although it is sometimes disputed whether this is always permissible in a smaller church within the jurisdiction of a larger one, especially a parish, it has never been disputed between two equal parishes. He notes, concerning the fifth point of the sentence, that when Piton, *Discipline Ecclesiastica*, 9, number 20, proposes an alternative which is the best reason among equals, the Bishop allows the opponent to choose, and that no reason can be devised why the parish priest of Michaelis should object. Regarding the sixth point, he recalls that the parish priest of Michaelis is claiming ownership of a house which he does not possess. Therefore, in order for him to obtain this, he must either clearly demonstrate his right, or he must also take care to ascertain, through a special agreement, how the jurisdictions of the entire city were defined through conventions. In the meantime, however, since he lacks proof, possession and custom must be maintained. Finally, in the seventh place, in the sentence, it is defined that the title of prefect granted to the parish priest of Peter is entirely due to him, and that this is a matter which requires no demonstration, the patron concluded. With these premises established, the following propositions are to be examined: Doubt I. Does it consist of a peremptory declaration in this case? And to the extent that it is Negative. II. Whether the sentence of the Curia Alexandrina of May 16, 1888, should be confirmed or rejected in this case. RESOLUTION. After discussion by the Sacred Congregation on June 18, 1887, it was decided to respond: The Bishop shall proceed, within one year, removing any appeal, to the delimitation.

[*Latin ed. p. 177*]

ALEXANDRINA. Concerning the territorial jurisdiction of both parishes; and in the meantime, both parts shall remain under the jurisdiction of the Bishop until the day of ordination, May 16, 1883, and with the understanding that the administration of the Sacrament shall be performed by the same celebrant. From which, the following may be gathered:

I. To avoid disturbances and scandals among the people, Bishops can, both from the Council of Trent, Session 25, chapter 13, and from common jurisprudence, settle disputes regarding matters of precedence, processions,

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and other sacred functions, either through a formal judgment, or even summarily and without any form of trial.

II. A fatal error occurs when a judge's "judgment" harms the party burdened by it, to the extent that that party no longer has any ordinary legal remedy; and because the judgment becomes a res judicata, and is considered to be true.

III. All appeals must be presented to the judges by those who are interested, within a period of ten days, counted from the recitation of the judgment.

IV. It is not necessary to have the assistance of a procurator for an appeal against a judgment that is contrary to the disposition of the canons of law; because such an appeal is null, has no effect, and leaves the matter in its original state.

V. An appeal made orally is only admitted if it is made immediately after the judgment is pronounced; for if someone appeals in writing, it is sufficient if he says: "I appeal."

VI. Even if an appeal is made within the proper time, it is extinguished, unless the appellant within one year from the appeal presents to the judge to whom the appeal is made, a copy of the proceedings and documents that were presented in the previous judgment, so that the case can be submitted to another judge.

VII. It is entirely to be condemned, as an abuse, the custom whereby the Most Holy Sacrament is carried alternately by two persons during processions; and because the administration of the Sacrament must be performed by one and the same celebrant.

VIII. In the matter at hand, it appears that the time for appeal has been peremptorily concluded. Acts, Volume XX, page 232, line 12.

[*Latin ed. p. 178*]

IN PAMPLONA. CONCERNING THE GOODS OF THE CHURCH FOR THE SATISFACTION OF VARIOUS DEBTS. June 18, 1887. Through summary payments. A SUMMARY OF THE FACTS. In the year 1869, by apostolic bulls of the Most Holy Pope Pius IX, the collegiate chapter of Pamplona, which was regular, was suppressed, and a new institution consisting of secular priests was established. Furthermore, this new chapter discovered, according to indications given to it by its predecessors, a large sum of 186,867 livres, hidden by various means, which had been accumulated from the spoils of the former canons, and which, therefore, belonged to the cathedral church as its heir; and which, however, until then, had been concealed there in order to preserve it from the ravages of time. The canons, so that this sum would not remain idle, immediately invested it in consolidated bonds of the Spanish public treasury, and from this, they now receive an annual interest of 7480 livres, although this amount has been

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reduced to 3240 livres due to a reduction in profits or interest. Furthermore, there were also in the church various pious bequests and chapels, the assets of which were quickly sold by the government, as if they were free, but the government undertook the obligation of fulfilling them and of delivering an annual proportional sum for the satisfaction of these bequests and chapels. However, up to now, the government has not kept its promises and has not yet contributed anything for this purpose. Moreover, the chapter, which consists of twenty-nine canons, to whom are attached fourteen beneficed persons, and several chaplains, is not sufficiently endowed, perhaps because the government is sparing with expenses. The canons recall that they will finally receive an annual sum of 350 livres, if they add to their pension some supplement derived from the aforementioned interest. Therefore, from the beginning, the chapter has been accustomed to receive a profit of 7480 livres, and then, later, 3240 livres, from the fund.

[*Latin ed. p. 179*]

PAMPILONEN. Quam ob rem, ut diximus, percipiebat 179 spoliorum, quae, proportionate inter omnes, dividebantur; sicut etiam, proportionate inter omnes, solitae erant dividi onera missarum, usurpationes capellanicarum, et quae a gubernio non solvuntur. Sed in hoc, aliquid discretionis, capitulum non latuit; "et tandem, coepit dubitare, num ita continuare liceat." Ideo, rogat ut, si S. V. bene viderit, possit, in posterum, missas, tam cantatas quam privatas, anniversaria, aliasque functiones ecclesiasticas, cum bonis a gubernio venditis adiectis, celebrare; et ex redditibus praedictis, ex spoliorum summa, partem cuique ex canonicis beneficiorum, ceterisque de clero cathedrali, respondentem, percipere; interea etiam, res cum gubernio gerendo, ut, juxta art. 39 concordati iam citatum, quoad implementum onerum, omnia ad optatum exitum perducantur." Rogatus super hisce precibus, Episcopus respondit, eas benigne esse accipiendas, tum considerato statu oeconomica ecclesiae inserviendum, qui ob annonae caritatem, difficile et arcte vivunt; nec non, respectu habito ad legata, quae ita aliquo modo implebuntur: iudicat autem tempus nunc non esse opportunum, ut a gubernio observantia art. 39 Concordati exigatur. Concluit autem: "valde expedire ad quietem conscientiae omnium, qui de emolumentis participarunt, ut pro praeterito, benigna S. Sedis sanatio accedat facto, de quo est sermo: quandoquidem de bonis ecclesiae agitur, et inversione eorum in fines pios. Pro futuro etiam, expedire existimo, ut permittatur Capitulo, celebratio anniversariorum et onerum fundationum huius ecclesiae, 3240 libellis, quae constituunt redditum Inscriptionum Publici Debiti, ea lege, ut quando fiat redintegratio a Gubernio, debita restituatur ecclesiae quantitas expensa, et etiam ea conditione, ut si superveniat aliqua necessitas ecclesiae, sit absque eius praeiudicio... Desiderandum esset, ut in casu ad aliquam reductionem antiquissimorum anniversariorum, quae valde tenue habent stipendium, deveniretur, et missarum lectarum, quae

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ipsis adnexae sunt."

[*Latin ed. p. 180*]

In Pamplona. The matter of whether a Synodal decision can be considered valid in law is to be examined. It is well known from the Extravagantes that the goods of a church cannot be alienated nor converted to another use, except for a legitimate cause, as prescribed in the Constitution of Pope Leo M., which begins with "Occasio," and certain accompanying solemnities, or by apostolic dispensation. The legitimate cause must be based on urgent necessity and evident utility, as stated in the apostolic Constitution, in the commentary on the Constitution of Pope Leo the Great, lect. 4, n. S, and nn. 110-111 and 121. However, there has been and remains no legitimate cause for converting the goods of the church to fulfill pious foundations, because the burdens added were distinct masses of goods, which were sold by the Government without fault and without the blame of the Chapter. Therefore, the revenues suppressed and extinguished should be considered extinguished, or at least suspended, in part, by the Chapter. However, it should be noted that here we are not dealing with a true alienation of the church's assets, but with a conversion for pious purposes. The church's assets and pious obligations will be fulfilled, and provision will be made for the greater benefit of the church by assisting the most miserable needs of the canons. Indeed, the Sacred Congregation of Councils has often granted similar permissions, as in the case of Spoleta, dated May 17, 1828, and in the case of "Nullius Sublacen.," dated November 27, 1858, and in several others: It has been stated that the pious obligations will be fulfilled; for although the goods to which these obligations were attached have been sold, it seems always proper for the church to preserve the pious intentions of the founders, if other suitable means are available to it. With the foregoing in mind, the question was raised as to what should be answered in prayer.

RESOLUTION. After deliberation, the Sacred Congregation of Councils, on June 18, 1887, decided to respond as follows: For the sake of absolution and remission with regard to the past, and for the faculty, provided that the present circumstances persist, of distributing in the future the revenues in question among the canons, it is granted.

[*Latin ed. p. 181*]

PAMPLONA. 181. By a prudent judgment of the Bishop, certain Masses and anniversaries are to be celebrated to satisfy obligations, until those obligations have been fulfilled, as agreed upon with the Most Reverend Order of Discalced Carmelites of St. Augustine in the Philippine Islands, on the 18th of June, 1887. Through summary petitions. The Provincial of the Discalced Augustinians in the Philippine Islands humbly presented to the Holy See: "That in the year 1761, John Salmonte and Taboada established in their will a pious endowment of three thousand scudos in

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favor of this our Province of St. Nicholas of Tolentino, with the obligation of establishing one Religious Missionary in the place called Bislig on the Island of Mindanao, or in another place on the same island, at the discretion of the Provincial and the Definitor Fathers, and with the right to legally increase said sum by 3000 scudos. Now, by order of the government of Madrid, all of our Religious who are found on the aforementioned Island of Mindanao must transfer to two other [locations]. Therefore, since the departure of our Religious from the Island of Mindanao is not made by the choice of the Province, but by order of the government of Madrid, as stated above, and since the establishment of these Missions entails great expenses from elsewhere, we humbly beseech Your Holiness, as an orator, to deign to grant a dispensation regarding the place designated in the will, so that what was spent on the Mission of Mindanao may in the future be able to be spent on the Missions recently established." The General Procurator of the Order, affirming the truthfulness of the petitions, added that, in order that the grace might be more easily granted, it manifestly appears from the context of the will that the testator had great benevolence towards the Province of St. Nicholas; from which it may rightly be inferred that, as the Provincial and the Definitor Fathers deem fitting, the remainder of the endowment...

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 182*]

182 ORDER CONCERNING THE SHOES OF ST. AUGUSTINE, ETC. It appears that the selection of a location in Mindanao for the establishment of a mission, in the same manner, would also have given the power to expend the endowment on new missions, especially since religious are compelled to migrate from that island. A Synopsis of the Matter. PRAYERS SEEM TO BE REJECTED. The matter concerns the transfer of the endowment: the founder had stipulated that a certain sum of 3000 scudi should be used to endow a church on the island of Mindanao; now, they seek to transfer this endowment to another church on the island of Mindoro or Paragua. However, this is opposed by the express will of the testator, who wished that the location be Bislig or another place on that island. And, as is known, clear words do not admit of interpretation, nor the conjecture of the will, according to Abbot cons. 97 n. 1, book 2. Thus, the Glossa in c. Cum dilectus S v. Iure com. De consuet. states: "Where the words are not ambiguous, there is no place for interpretation; but where they are doubtful, interpretation is necessary... because otherwise, to seek interpretation in clear words would be the same as seeking a knot in a reed." Bearing this in mind, both the observance that the wills of founders and testators must be respected, and justice, so that the island of Mindanao is not deprived of a benefit once granted and long retained, seem to require that the Provincial reject these

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requests. It cannot be said that this involves minor changes, nor that the testator's will is being altered in substantial matters, since the endowment will always be applied to churches for missions. Since it can be maintained that the wills of founders are to be scrupulously observed even in the smallest matters, and this is taught without distinction, both by the Council of Trent in Session 25, chapter 4, De reform, and by St. Charles Borromeo in his writings, and by the very concept of justice, furthermore, the transfer of the endowment should not be considered an absolutely trivial matter, since it results in one being deprived of a benefit, while another gratuitously and without any title accumulates the same benefit. PRAYERS SEEM TO BE GRANTED. Conversely, it is to be considered...

[*Latin ed. p. 183*]

Regarding the shoes of St. Augustine, etc. 318: It is necessary that the testator, when providing for a place through his legate, should not appear to be excessively concerned about the location; rather, he should have entrusted the matter to the judgment of the Fathers. Therefore, he designated the legate as "for the Fathers of the [Order name] or another, at the discretion of the Provincial and the Fathers." And although it is true that the place is not to be interpreted in "clear" words, nevertheless, when another meaning is suggested by the subject matter or the nature of the act, interpretation is certainly permitted, according to the rule of L. De legat. III and the axiom 222 n. 4 of Barbosa, which is commonly accepted. Indeed, according to canon Humanae aures 24 q. 5, "one must not consider words in a naked and simple sense, but the will and intention, because the intention must not be subservient to the words, but the words to the intention." Furthermore, concerning the matter, it can be maintained that the testator, by entrusting the assignment of the legate to the Fathers, intended to establish a benefit for them for their missions, but to be administered through the Fathers; and that he named the island of Mindanao, because the Fathers were then residing there; which, if he had known that they would be going elsewhere, he would not have hesitated to transfer the legate to a new location for the missions. Moreover, beyond these considerations, the benevolence with which the testator regarded this family of Fathers suggests that their prayers should be heard, and that they should not be deprived of the benefit, which was established for the good of the people, for the honor of the Church and of God, and which also extended to their own benefit and advantage, so that they might live comfortably and contribute to the needs of the missions. This circumstance has even greater value, inasmuch as the departure of the Fathers from that island was entirely involuntary. For it is civil authority that leads the Fathers elsewhere. Therefore, they seem to be able to petition, with good reason, that the legate not be diminished. Finally, although the assignment of the legate is not a matter of great importance, yet, in this case, since the testator specifically,

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in his will,

[*Latin ed. p. 184*]

184 ORDER CONCERNING THE SHOES OF ST. AUGUSTINE, ETC. If, in another place, an assignment has not been made, no specific right can be violated by the transfer. However, a general injury is not so odious in itself as a specific one; moreover, in the matter under consideration, doubt can also arise: since it can always be argued whether the legacy left was intended more for the benefit of the island itself, or for the support of the missions of these Fathers. Having stated these things, the question arose as to what should be answered in the case. RESOLUTION. The Sacred Congregation of the Council, after examination under the date of June 18, 1887, decided to respond: "For the sake of clarity, having received the verbal agreement with the Most Reverend MELEVITAN regarding the legacy on May 14, 1887, Session 25, Chapter 4, concerning reforms." SUMMARY OF THE CASE. The Savior of the diocese of Melevitana, in his last will and testament of the year 1880, by which he also passed away, established a sacred annual income of 400 livres, stipulating that a priest designated for that purpose should be named, and that the priest so appointed should offer 15 Masses each year for the soul of the founder, and should be obligated to hear the confessions of the faithful in the church of St. Paul the Shipwrecked, on certain days and at certain hours. (1) A *praestimo* is a stipend that is taken from ecclesiastical revenues and given to canons or other clerics for their support in life, especially if they are devoted to studies, but for a certain and determined period of time. And it usually involves a small daily prayer obligation, but not the obligation of divine psalmody. A *praestimo*, in its original nature, cannot be called a benefice, because the proper characteristic of an ecclesiastical benefice is to grant the right to receive the fruits from goods of the Church perpetually. However, with the passage of time, *praestimos* have come to be conferred as perpetual titles, so that they are held until the death of the one who receives them; and in this case, they take on the nature of benefices. Although, truly, *praestimos* conferred for a perpetual title, and which involve the obligation of reciting the canonical hours, nevertheless, by their very institution, they do not usually involve any service in the Church, nor are they burdened with the obligation of residence.

[*Latin ed. p. 185*]

185. Indeed, after a will had been made and requested, it happened that, towards the end of his life, the testator repeatedly manifested his will to reform and moderate the pious bequest, and he signified this not once, but both to his confessor, and to a certain legal expert who, as the Apostolic Administrator writes, had already been ordered to manage the matter; so that the bequest was to be reduced to 200 missals, with the obligation of as

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many Masses as could be celebrated with 18 missals. But, being prevented by death, he was unable to carry out what he had proposed. In this situation, his nephew and heir, Caietan, to whom the satisfaction of the bequests was due, approached the Most Holy [Father], earnestly praying that the aforementioned sacred patrimony be reduced to 200 missals, as it was the testator's last intention.

Synopsis of the Discussion. Although it is beyond dispute that, until death, the testator can always and freely revoke or change his will, because "the will of man is mutable until the very end of life," (arg. L. Si quis. 12 ff. de legat. et L. Quod si 4 ff. De adim. legat.), it is equally certain that the testator, in his last moments, declares the law by which he is governed, and it is forbidden to deviate from this. "For the last will is observed," as expressly stated in L. Translatio 6 ff. De adim. legat. But the last will that is observed is that which is established by a duly executed will, which, indeed, legally and through the formalities required by law, subsists. For a will is "the just expression of our will concerning what we wish to be done after our death" (ex L. 1 ff. Qui test. fac. pos.). Just, I say, that is to say, solemn. Therefore, all the formalities required by law must be observed in the preparation of a will, and none can be omitted without the danger of nullity (L. 17 L. 23 C. De fideicom.). Therefore, both under Roman law and under the laws currently in force, the will of the deceased is not considered when it is contrary to the law, that is, when it is subject to legal restrictions.

[*Latin ed. p. 186*]

186. Moreover, if the will is not expressed in a clear and formal manner, or if it is subject to revocation or contains imperfect stipulations, it is of less force. However, in our case, the testator's will regarding the reduction of the legacy was not expressly stated; but, as it is alleged, was manifested during the process of drafting. Furthermore, there is a question of altering the will to the detriment of the "pious cause." Indeed, it is rightly maintained that the pious cause should enjoy the protection of the law in acquiring property, and therefore, testaments made for pious causes are privileged and are admitted more easily, L. 38 ff. De Fidëicom. Liberi, I. 1 C. De Sac. Eccles., Fagnanus in cap. Cum esses De Testam, n. 11 cum communi; and conversely, the pious cause should enjoy the protection of the law, so that it does not lose or be deprived of what it has acquired. And although legacies outside of a will can be transferred and taken away, the same formalities are not required in the removal of legatees as in wills; nevertheless, as Reiffenstuel states in De Testam, n. 764, "legacies can certainly be revoked by words, by deed, and by signs, both within and outside the will," tacitly and expressly; but only if those formalities are present, namely, "five witnesses." The conclusion is clear and evident from numerous titles, ff. De Adim. Legat, and Inst. De Adempì, Legat. Indeed, the law explicitly states in L. ult. De Codicill. in fin. that five witnesses are required to make a legacy

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outside of a will. However, if only two witnesses testify to the testator's intention regarding the partial removal of the legacy, their testimony does not seem sufficient to be considered.

WHAT FAVORS THE CLAIMS. Conversely, the Apostolic Administrator notes that the sacred property was not the testator's final will, since he intended to reduce it to 200 pounds, as testified under oath by his Confessor and his legal advisor. However, he was unable to complete this, due to a sudden illness that led him to his grave. Furthermore, although it is necessary for wills to be valid that a subsequent will be properly executed, or some other similar instrument,

[*Latin ed. p. 187*]

It is desired to introduce an exception, and it is not sufficient to oppose the contrary with the testimony of two witnesses; however, this does not apply in matters concerning legacies. For legacies can easily be revoked, as the aforementioned passage from Reiffenstuel demonstrates; and there are various ways in which they can be transferred or extinguished, namely by law, by actions, and by means of an exception. By law, indeed, if someone, through a new testament or codicil, takes away a legacy previously granted; by actions, if someone dissipates, gives away, or converts to another form the thing bequeathed, beyond what is necessary; finally (which is entirely relevant to our matter), legacies are revoked by means of an exception, whenever clear indications of a changed will exist, such as when there is a capital enmity between the testator and the legatee, and no reconciliation has followed, I. 3 § ult. and I. 4 ff. De adempt. legat.; or if the testator, before two witnesses, or in a writing, expresses a contrary will, as in I. 17 ff. De adim. legat., and I. 27 c. De fideic. And so, Heineccius believes and teaches in his commentaries on the Institutes, book 2, title 31, and again in the Pandects, in the title concerning the revocation of legacies, where he adds: "A legacy, whether 'legato vel fidei' (to a legatee or in trust), is revoked... by means of an exception, whenever something has happened, from which the testator's changed will can be understood, e.g., if a capital enmity has arisen." What if the revocation is done by words? I answer: then, if the action is in the testament, or in codicils confirmed by the testament, the legacy is considered revoked by law, I. 2 § 1 ff. 4 t. But if the codicils are not confirmed by the testament, or if it is in a writing, or before two witnesses, then by means of an exception, I. 3 § ult., I. 13 h. t. ff., and I. 4 § 10 ff. De dol. mal. et met. excepi. Hence the axiom: "Legacies are revoked by the will," I. 3 § 11 ff. h. t., so that, as far as the effect is concerned, even a certain solemnity is not required. The same is held and defended by Pirhing in annexed chapter Iudicante 4 De legatis, and with the Abbot ibid. n. 1. Indeed, Donellus, in De adim. legat., states that two or three witnesses may suffice for this, not just one. The opinion of Reiffenstuel, however, is that

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five are required.

[*Latin ed. p. 188*]

188 The witnesses in Melelevana seem excessive, based on a rather weak foundation, and have been rejected by many. Therefore, he requires five witnesses in the case of the alteration or revocation of a legacy, because "if anyone makes a legacy outside of a testament, or without a testament, five witnesses are required and are sufficient, whether it be done orally or in writing"—as expressly stated in I, at the end of the last chapter, in the codicil. - there: - "In every last will, except for a testament, five witnesses must be used." But Reiffenstuel here reasons in a similar way, as if the establishment and the revocation or transfer of a legacy were the same thing, which is certainly not the case, following more closely the Roman law. Since the revocation and transfer of a legacy is usually more beneficial to the heir than the creation of a new legacy, we have seen, according to what Heineccius states, that revocations are easily admitted under Roman law. Furthermore, everyone knows the saying that an argument drawn from a similar case is a fragile argument, and that it can easily be refuted by a single point of dissimilarity. But, although the law of the ancient Romans was the strictest in matters of testaments, it gradually descended to milder and more reasonable principles. And this was further developed by canonical jurisprudence, which, especially in testaments and legacies for pious causes, declared that only one thing should be considered, that all ambiguities and intricate formalities should be rejected, and that care should be taken to observe the true will of the deceased: and in this, three or even two witnesses are sufficient, according to chapter 11 of Be test. It should not be said that this applies only when it concerns acquiring a benefit for a pious cause. For, since "every thing, for whatever reasons it arises, must be dissolved by the same reasons," it follows that if two witnesses are sufficient to acquire a legacy for a pious cause, then two witnesses should also be sufficient to revoke or transfer it. However, the protection afforded to pious causes extends to this, so that they cannot be deprived of their benefits without formalities, and are defended by the privileges granted to minors.

[*Latin ed. p. 189*]

In the case of the Melevitani, 189, it is held that they possess what they have acquired; however, they cannot be compelled to defend the possession of goods not yet acquired, or goods acquired contrary to the will of the testator; and even less can they obstruct the testator from validly changing, according to the ordinary rules of law, a will that has once been clearly manifested, according to his own pleasure. With these premises stated, the purpose was to resolve the doubt concerning whether there is a place for a request for a partial revocation of a legacy in a given case. RESOLUTION.

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The Sacred Congregation, having considered the matter, on May 14, 1887, decided to respond: Negatively. FROM WHICH THESE CONCLUSIONS ARE DERIVED. I. The testator, when making a will, declares the law concerning what he wishes to be done after his death; and this will, as the law dictates, must be observed in all respects, and it is unlawful to deviate from it according to common law. II. In order for the will of the testator to have the force of law, it must be expressed through the formalities required by law; if even one of these formalities is lacking, the will of the deceased is not considered by the law. III. Only the testator's last will, which has been expressed through a properly executed testament, is observed; that same will is not considered in any way if it is not formally and legally expressed, and not as if it were law. IV. In the matter of the testator's will concerning the reduction of a legacy, the formalities required by law were lacking; since it was not declared as if it were law, but only manifested to some. AUGUSTANA: REGARDING THE SUSPENSION AND DEPRIVATION OF A PARISH. June 18, 1887. S.S. 21, chapter 6, concerning reform. SUMMARY OF THE CASE. Johannes Nepomucenus Schmid was immediately appointed to the parish of Buchdorf in the Diocese of Eystättensis after receiving his priestly ordination, at the age of barely 26.

[*Latin ed. p. 190*]

190. AUGUSTANA was of age. He resided there for five years, and subsequently was transferred to another parish within the same diocese, named "Wittisheim." Finally, after approximately six years, by royal appointment, he became the pastor of the parish of Scheppach in the diocese of Augustana, where he still resides. However, from the beginning, he was easily tempted to contract debts, the cause of which will be discussed later. Furthermore, it appears that he did not always act with fairness, nor did he always fulfill the obligations he had undertaken; therefore, repeated protests were made against him to the authorities, and the Ordinary corrected him on more than one occasion, albeit somewhat leniently. Nevertheless, the situation might not have reached such extremes, had not a certain circumstance occurred, for which the priest Schmid had to suffer a very severe punishment. Indeed, he obtained a valuable ring from a certain man named Koller, a citizen of Monacensi, and shortly thereafter, he received 1000 marks from the monetary fund Herz and Schmid in the town of Landsberg, stating that the ring was to be given to a woman in exchange for certain sacred objects, for the benefit of a particular oratory; and that 1000 marks were to be spent for two ecclesiastical foundations. However, the ring was sold and converted into money, and both sums were almost entirely consumed for the private use of the priest. Meanwhile, the creditors were pressing for the restitution of the debt; and, seeing themselves so shamefully deceived, although (as both admit) they were ultimately almost fully satisfied, they nevertheless

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brought the matter before the civil court. And on July 1, 1884, a formal sentence was issued, condemning the pastor Schmid to imprisonment for three months for fraud committed in a public contract. The pastor appealed to the highest court of the German Empire; but his appeal was rejected, and the sentence was upheld; therefore, the unfortunate priest was forced to suffer the imposed punishment in public prisons. Upon learning of these events, the Augustana court summoned the accused pastor, and also called several witnesses from the parish, and finally, on April H, 1885, proceeded in a summary manner with the investigation.

[*Latin ed. p. 191*]

AUGUSTANA, S. O. EE. et R. R. (I) Having held a trial, it rendered a judgment, by which it declared that the priest Schmid had incurred a criminal condemnation and infamy under the law, and was therefore suspended; simultaneously, the parish remained *privatum*. He immediately appealed to the Metropolitan court, but the Bavarian Prelate, after carefully considering the appellant's petition, nevertheless judged that the previous sentence should be confirmed: which he accomplished according to form with a decree of June 20, 1885. The priest Schmid, his spirit broken, but not defeated, within a reasonable time, namely within ten days, appealed to the Holy See, alleging the sentences passed against him, his defense, and, above all, the subscription of 114 parishioners drawn up in his favor. A Synopsis of the Dispute. Indeed, the pastor, in order to vindicate himself, first demonstrated that his priestly life had exhibited nothing reprehensible up to that point; and that he had continuously labored with zeal for souls and pastoral concern: the testimony to which he does not wish to offer with his own words, but with a public document signed by 114 parishioners of Scheppach, in which more and extraordinary things are stated about the charity, piety, and virtues of this priest; and this document is rendered of greater value by the fact that it was freely drawn up: for at that time the priest Schmid was being held in custody, and therefore, without any pressure from him, the signatures of the parishioners proceeded spontaneously. Indeed, not only was this testimony given spontaneously, but, despite the difficulties that arose from the part of certain individuals, and indeed powerful ones, who were opposed to the pastor. WHAT FAVORS THE PASTOR. Furthermore, he is accused of a deplorable lust for acquiring the property of others. But in this matter, the following considerations must be taken into account: first, the sad reasons for his economic condition: for the two parishes of Eystett, to which he was successively appointed,

[*Latin ed. p. 192*]

192 In AUGUSTANA, he was appointed, and it comprised a very poor population, and their revenues were so meager that they did not exceed 1200 marks: and this was the beginning of troubles. For he not only had

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to provide for the needs of the people, as a good shepherd is sometimes obliged to do, but he also had to support his father, whom he had with him for 12 years, and his mother, whom he had with him for 25 years, and furthermore, until the very end of his life, his sister was constantly afflicted with illnesses. Moreover, if he began to incur debts, it seems rather that he is deserving of compassion than punishment; and it is not surprising that, once he had embarked on this path, he became increasingly involved in more difficult business and financial matters. Even more so, he found that the third parish, which he now holds, was also burdened with various and serious needs, so that he had to provide 6220 marks for the repair and maintenance of the parochial buildings. Nevertheless, he did not proceed with deceit or fraud in his dealings, but, according to his own words, he always acted in the best way possible, upholding the faith entrusted to him and the obligations he had undertaken. Finally, the witnesses who testified against the pastor claimed that they were despicable and enemies of the pastor, and therefore, according to L. 3 ff. De test., and attesti, which is canonized in c. Si testes § Testium fides 4 p. 3, they should have been completely excluded from giving testimony. Therefore, having set aside these accusations, because they are not only exaggerated and perhaps false, but above all because from them, very serious penalties of irregularity, suspension, and deprivation cannot be clearly proven, as the judicial sentences themselves easily show, let us proceed to what constituted the main point of contention. For they claim that the priest Schmid incurred infamy because of a sentence in which he was fined with imprisonment. But the pastor replied that that sentence was entirely unjust, because, "it could not be proven (he said) that he had acted fraudulently, and that he had caused material damage to his accusers." As for the debts and obligations, both with Koller and with the mint, he had completely...

[*Latin ed. p. 193*]

AUGUSTANA. It has been done unjustly; and therefore, it is nothing but the greatest injustice, and a mad hatred, that it could have been condemned in this way. But even if the judgment is considered just, it does not seem certain that the priest Schmid has suffered dishonor from it. Firstly, it is not a legal dishonor; for as D'Annibale teaches in *Summa*, vol. 1, no. 120, "legal dishonor arises from a shameful act which is marked as dishonor by the laws." Therefore, according to canon law, those who are considered infamous by civil law are also infamous, according to canon 6, question 1, of the *Universae causae*. However, according to accepted civil laws, the priest Schmid did not incur dishonor from his criminal conviction. Indeed, he himself says, "that he was not deprived by the civil court of the civil rights, as they are called; and therefore, after his return from prison, he was admitted again to those functions of a mixed nature, which are usually assigned to individual parish priests by the civil government." But

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furthermore, the priest does not even seem to have incurred a true dishonor from the act itself. For this is contracted from an act which, although not punished by the rigor of the laws, nevertheless wounds the reputation of a person. But in this case, it seems that the parish priest Schmid has not lost his good name, honor, and reputation, at least among his parishioners, as a public and immense subscription drawn up in his favor seems to show. But even if it is considered that, for this reason, the priest has suffered a loss of honor, it certainly does not follow that he has thereby become irregular, nor consequently subject to suspension and deposition. For a truer opinion seems to be that irregularity is not contracted from the dishonor of an act alone, as D'Annibale states in the aforementioned passage, with Suarez 48.2.2, Reiffenstuel in chapter 87 of *De reg. iur.*, and others. But even if it does entail irregularity, this is certainly removed by penance, according to chapter 54 of *De test.*, Layman 4.10, St. Alphonsus, book 7, no. 352, and the cited authors throughout. Furthermore, if the priest Schmid has not contracted legal dishonor, and if, from the dishonor of the act, even if he has suffered it, he has not become irregular; then his judgment seems to be completely unfounded.

WHAT IS OBJECTED TO THE PARISH PRIEST. But on the other hand, from the *Acta*, vol. XX, page 233, no. 13.

[*Latin ed. p. 194*]

494 In AUGUSTANA, la negligencia del sacerdote Schmid en el ejercicio de su ministerio pastoral, aunque no se haya determinado una causa suficientemente justificada ni motivada para la sentencia, es ampliamente admitida. Este fallo fue señalado incidentalmente por el juez de primera instancia. Quizás el juez quiso decir esto para que nadie sospechara que el sacerdote, tan implicado en negocios, culpable de tantas fraudes y una vez multado con prisión, hubiera sido irreprochable en su oficio. "Las omisiones pastorales, de las cuales mencionamos en nuestra sentencia, escribe el juez Augustanus en sus últimas cartas, son de menor importancia en comparación con la infamia de la ley; y nosotros no pudimos ignorarlas, porque, además de otras cosas, los párrocos demandantes habían recurrido a nuestro tribunal por este asunto." El juez de segunda instancia confirmó lo mismo, diciendo: "Las quejas sobre la manera de actuar como párroco fueron presentadas en apoyo de la sentencia; pero el juicio de culpabilidad se basa principalmente en el acto fraudulento por el cual contraía deuda ajena. La negligencia del párroco y sus frecuentes ausencias de la parroquia ya habían sido repetidamente denunciadas antes del inicio del caso; por lo tanto, el asunto era completamente conocido en el tribunal, y no es sorprendente, porque para un hombre constantemente presionado por los prestamistas con letras de cambio, aquí, allá, a veces para contraer una deuda, a veces para extinguirla, y completamente absorto en estos asuntos temporales, necesariamente debía haber una menor aplicación y

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cuidado hacia la parroquia. En relación con la suscripción de 114 párrocos en la que solo se elogia el celo del párroco y se defiende de la acusación de negligencia, pero se guarda silencio por completo sobre la deshonesta administración de sus negocios, el Obispo interrogó a cuatro testigos bajo juramento, a saber, al síndico local y a otros tres miembros destacados del municipio, quienes, bajo juramento, declararon solemnemente que ese documento había sido circulado en la parroquia por el hermano del párroco, durante el tiempo en que este cumplía su pena de prisión. En cuanto al punto principal del asunto, es decir, la codicia por contraer deuda ajena y la conducta deshonesta, la sentencia de Augustana establece que, desde el principio, el párroco...

[*Latin ed. p. 195*]

AUGUSTANA. 19. It has become customary for pawnbrokers to write agreements, but he has, in truth, come to prefer entering into contracts with private individuals, and even with sacred institutions. And as if these matters were not sufficient, the judge affirms in his most recent writings that he has learned of another, even more serious, misappropriation of funds: "There is, in fact, a woman, one of his creditors, who has lost 70,000 marks, and this is due to his fault." Therefore, the bishop, not without a certain truth, confesses that the sum of money obtained from others by this priest is greater than can be imagined; to which the president of the court adds: "He has not been ashamed to accumulate such a large amount of money belonging to others, even though he knew perfectly well that he would not be able to repay it, even with the longest life, with God's help."

Furthermore, he has often proceeded through deceit and lies, as the president of the court states in his repeatedly cited writings, and the very subject matter under consideration readily suggests; for he could not have obtained such large sums from so many, even poor, individuals, unless he had promised and pretended things that were false, and he knew that he could not repay them. But above all, his own confession, made in the episcopal court on September 4, 1882, reveals the fraudulent nature of his actions. Nor can the accused appeal to the necessities of his family to mitigate his guilt; for such a claim does not seem sufficient to explain such enormous debts. It is established and stated in both judgments that the priest Schmid has spent considerable sums on wine, sweets, fish, and other items, purchased even from distant places; therefore, this must be attributed not so much to the necessities of his family, but rather to his reckless administration, and to his excessively refined lifestyle.

However, although all of these things are serious, worthy of correction, and perhaps destined to bring some degree of infamy, they are nevertheless merely preliminary to the judgments and penalties that derive from the frauds committed against the Lord Koller and the Herz and Schmid mint,

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and from the condemnatory civil court decree.

[*Latin ed. p. 196*]

In Aosta, an improper course of action was taken by the priest Schmid, and in so many other and such important matters, he incited, confirmed, and aggravated the guilt and infamy committed in the last place. Moreover, he was condemned, not for the restitution of the money, but for the frauds committed in his petition. Furthermore, this criminal sentence was considered by the highest judge of the empire to be most just, but what is most important, he himself, the accused, confessed it, as the judge of the appeal noted. With this criminal condemnation standing, which the court of Aosta legitimately proceeded with, as taught by articles 43, 15, and 16 (1) of the Instructions of the Sacred Congregation of the Holy Office and the Roman Inquisition of June 11, 1880. Indeed, all of these things are relevant to the matter. The civil authority declared the priest Schmid guilty of fraud and deceit and condemned him: authentic knowledge and testimonies of proven faith, along with the alleged documents, demonstrate that this priest not only committed these crimes in that specific case of which the civil court spoke, but also in several other instances. Finally, there is the confession of the accused himself; therefore, only one thing remains to be done, namely, to see whether infamy has resulted for the aforementioned priest from this act. Indeed, Reiffenstuel, in the title on penalties, number 58, states that all "accused and condemned for a public offense, that is, an offense for which any accusation is permitted, such as treason, false testimony, adultery," incur infamy by the sentence of the judge; also, "robbery, theft, spoliation of inheritance, injury, etc.; although these later crimes are not considered public, but private; nevertheless, by the condemning sentence of the judge, they incur infamy." *I. Infamem. I. Becuriones 5,1. Furti 8, I. Si te espilasse 12 C. Bx quibus caus. irrog. infam... item de dolo malo..... condemnatus I. Fustibus 6 C. tit. cit. Where the aforementioned doctor significantly adds: "He who is condemned for these crimes is declared infamous, even if nothing is stated about it in the sentence."

[*Latin ed. p. 197*]

AUGUSTANA. 197 ●» Regarding the mention of infamy. » It is certainly more important to bear this in mind today, since in our present morals, the imposition or declaration of infamy in the tenor of sentences has almost entirely ceased. Furthermore, Canon Law, in can. *Infames* 17, cause 6, question 1, declares who are to be considered infamous by law itself, and includes among them "thieves and kidnappers." Moreover, those who are infamous by law become irregular, as stated in the cited canon. It is well known that, according to can. *fin.*, dist. 51, such individuals are indeed excluded from ecclesiastical dignities and honors, and are suspended from

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them, according to rule 87 of the canons, as is commonly known, according to Reiffenstuel I, cited. With these considerations in mind, the following questions were proposed: I. Whether the sentences of Augustana and Munich should be confirmed or rejected in this case. And, to the extent that they are affirmative. II. Under what conditions, and with what stipulations, can the priest Schmid be absolved from irregularity and suspension in this case?

RESOLUTION. The Holy Council, having considered the matter, on June 1, 1887, decided to respond: To I. The sentence is to be confirmed. To II. Affirmative, with a prior departure from the parish, and after spiritual exercises have been completed in a pious house, at the discretion of the Bishop, to whose charity the matter is entrusted.

FROM WHICH THE FOLLOWING ARE DEDUCED: I. Since dignities and honors are a reward for virtue, they should be conferred upon those who shine with virtue and merit, and not upon the criminal; for by promoting such individuals, not only are the unworthy honored, but the honors and dignities themselves are defamed. II. On this matter, the law states: "Nor shall the gates be opened to the infamous and notorious, and those who have been stained by crime or immoral conduct, and those whom infamy separates from the company of honest men"; and rule 87 of the canons indicates "that the gates of dignities are not to be opened to the infamous." III. To incur infamy according to the law, through a sentence of a judge.

[*Latin ed. p. 198*]

98. In AUGUSTANA, omnes accusati et condemnati de publico delicto, sicut sunt proditio, crimen falsi, et adulterium... I. Infames aut fieri irregulares, et a dignitatibus et honoribus ecclesiasticis exclusos et suspensos haberi ex can. infames 17, caus. 6, q. 1. V. In themate tum civilem et ecclesiasticum processum, tum repetitam rei confessionem innuere, parochum infici crimine falsi; quod sequuntur infamia iuris, irregularitas et exclusio ab honoribus et dignitatibus ecclesiasticis. EX S. CONGREGATIONE RITUUM DIE XVI OCTOBRIS IN FESTO B. VICTORIS III, PAPAE ET CONF. D U P Omnia de Communi ter sequentia. L E X ZMZXJSTTTS Confessoris Pontificis primo loco, prae- Oratio. Deus, qui per Beatum Victorem Confessorem tuum atque Pontificem in summa Ecclesiae dignitate declinanda eaque tuenda, praclarum humilitatis et fortitudinis exemplum dedisti: concede nobis, eius meritis et imitatione, hostium omnium insidias invicto animo superare. Per Dominum. IN. I. NOCTURNO. Lectiones de Scriptura occurrente. IN II. NOCTURNO. Lectio IV. Victor Papa tertius, Desiderius antea dictus, Beneventi principe familia natus, a primis annis eximia pietate morumque innocentia praefulsit. Vix exacta adolescentia, terrenas nuptias

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adversatus,

[*Latin ed. p. 199*]

From the sacred rites, he, having been betrothed, secretly abandoned his bride and sought a hermitage. While his mother and relatives bore this ill-fare with great sorrow, lest he be dissuaded from his holy purpose, he embraced the monastic life, and subsequently changed his abode in various places. He first resided in the Monastery of Cávense, then he went to the Coenobium of the island of Tremitis, and at times he lived among the hermits of Mount Maiella. "Then, having recovered from a grave illness, he ascended to Cassinum, where, on account of his singular virtues, he was elected Abbot by the monks, and confirmed by Stephen the Ninth. By the order of the same Pontiff, he was sent as a legate to Constantinople to restore the Church, which had been separated, to communion with the Apostolic See. Lesson V. After the death of Stephen, he returned to the Cassinese coenobium, and shortly thereafter he was proclaimed Cardinal by Nicholas the Second of the Holy Roman Church, and was also appointed Abbot of Cassino. The same Pontiff and his successors destined him for the most important and difficult affairs of the Church, so that he would not be distracted from the governance of the monks; for not only did he promote the observance of the holy rule among the increased number of them, but he also restored the coenobium almost entirely. Moreover, he splendidly erected the Basilica of the holy father Benedict, from its foundations, and he enriched it with precious stones, works of art, and sacred furnishings, crafted with marvelous skill and at great expense, from the eastern lands to the very gates, so that it became a most illustrious monument of his generosity and genius. This Basilica was consecrated by Alexander the Second, as a sign of his benevolence towards Desiderius, in the presence of many bishops and cardinals, among whom are worthy of mention the holy Peter Damian and Hildebrand, who later succeeded Alexander as Gregory the Seventh. Lesson VI. When the holy Gregory, being near death, had designated him as the most worthy to succeed him in the Apostolic See, Desiderius was elected Pope by common consent. But his humility shone forth at that time, for he almost entirely refused such a high office for a whole year. Finally, induced by the prayers of prelates, princes, and the people, he accepted the name Victorious at the Synod of Capua, and received the insignia of the supreme pontificate. Brought to Rome, he was solemnly consecrated, and the pseudo-pontiff Guibert and his faction were expelled. He sent an army, gathered from almost all of Italy under the banner of Saint Peter, to Africa against the Saracens, where, after a battle was joined, he..."

[*Latin ed. p. 200*]

200 EX S * The assembled ranks of the clergy were thoroughly subdued. At Benevento, a Synod was convened, the schismatic was struck with anath-

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ema, and the investitures, which oppressed the liberty of the Church in elections, were completely abolished; and many other things pertaining to ecclesiastical discipline were decreed. After the Synod, being seized by a deadly illness, he wished to be carried to Cassino, accompanied by Cardinals and Bishops, where, exhausted by labors and sorrows for the reconciliation of the peace of the Church, he surrendered his soul to God, illustrious by sanctity and miracles, in the year one thousand eight hundred and seventy-seven. He held office from the day of his consecration for four months and seven days; and his body is venerated with the highest reverence in the Basilica of Cassino. FOR THE MASS: From the Common of Confessors, besides the following: *Oratio. O God, who through Blessed Victor, Your Confessor and Pope, gave a most excellent example of humility and fortitude in declining the highest dignity of the Church and in preserving it: grant us, through his merits and imitation, to overcome with an unconquered spirit the snares of all enemies. Through our Lord. *Secreta. May your votive sacrifices be pleasing to you, O Lord, and may we, through the intercession of the blessed Victor, your Confessor and Pope, merit to obtain what our own ability cannot achieve. Through our Lord. *Postcommunio. Having been refreshed by the reception of your Sacraments, we humbly beseech you, O Lord, that, through the pious intercession of the blessed Victor, your Confessor and Pope, whose honor we celebrate, you may grant us saving graces. Through our Lord. On the Occasion: Em. and Rmv. Dom. Cardinal Lucidus Maria Parocchi, Vicar of the Most Holy Lord Pope Leo XIII in the Eternal City, having been granted an opportunity, for the solemn commemoration, to be held on the sixteenth day of the coming month of October, of the centennial anniversary of the glorious death of Blessed Victor III, Pope and Confessor, who is rightly venerated among the illustrious Order of Saint Benedict, the Cassinese Congregation, humbly requested the Most Holy Lord, from Rome,

[*Latin ed. p. 201*]

201 FROM THE SACRED CONGREGATION FOR RITUALS: To the Clergy, both Secular and Regular, and to all others who use the Roman Calendar, it is permitted, each year on the sixteenth of October, to celebrate the Feast of the same Blessed Pontiff with a Mass and Office, according to the rite of the second class, as approved by the Sacred Congregation for Rituals in the aforementioned example; and furthermore, that this year, the same Feast be celebrated by both Clerics in the city of Rome, with a rite of the second class, transferred to the first day of the month of August, which is not impeded by the Feast of the Immaculate Conception of the Blessed Virgin Mary, should it fall on that day. Furthermore, His Holiness has graciously deigned to approve, in all respects, according to the petitions: observing the rubrics: and concerning these matters, the present Decree of the Sacred Congregation for Rituals is to be published. Contrary provisions

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notwithstanding. July 23, 1887. For the Most Reverend and Venerable Prefect, Cardinal D. BABOUNI, S. B. O. A. CAÏSD. SERAMI, Secretary. DECREE, whereby the already established regulations concerning the month of October, in which the Heavenly Queen of the Rosary is to be honored, are again confirmed; and whereby the Feast Day and the Office of the Most Holy Rosary are raised to the rite of the second class. URBIS ET OMEN. Amidst the dense darkness of errors and wickedness, the frequent recitation of the Rosary shines forth as a certain hope for the arising of salvation, excited and revived in Christian nations through the piety and trust in the great Mother of God, which has always been the most powerful support for the Church and for society in resisting the forces of earthly and infernal enemies. The words of the Most Holy Lord Leo XIII, through His Apostolic Letters, especially the Supreme Apostolic Office of September 1, 1883, promulgated to all regions of the world, like the seed of the divine word falling on good ground, have everywhere produced a hundredfold fruit, although elsewhere, due to the hardness of hearts, it has been trampled underfoot, choked, and suffocated. Everywhere on earth, the faithful, gathered together with their pastors, celebrate the Feast of the Rosary and the month of October with joy and fervor, from sunrise to sunset, calling upon Mary, who "has always been accustomed to offer herself as a most supplicable, most merciful, and most clement being to all, indiscriminately, offering the most ample compassion for all needs" (St. Thomas, Bishop of Valentia). And there is no reason to despair of obtaining victory, especially because of the admirable rite of prayer of the Rosary of Mary.

[*Latin ed. p. 202*]

202 FROM THE SACRED RITUALS: "To God is offered the worship of religion and the full confession of the Christian faith. For the Rosary, encompassing all the mysteries of Christ and the Virgin Mother in its circuit, embraces the entire faith. Truly, this is the victory that overcomes the world, our faith (1 John 5:4). The Most Blessed Father, greatly rejoicing in these things, earnestly exhorts all pastors of the Church and all the faithful to persevere with greater piety and confidence in the endeavors begun by the most august Queen of Peace, that through her intercession, she may, with the grace she possesses before God, dispel the terrible storm of present evils, overthrow the power of Satan, and, having vanquished the enemies of the faith, restore the mystical ship of Peter to the desired tranquility. Furthermore, concerning whatever has been decreed, and especially through the decree of the Congregation of Sacred Rites of August 26, 1886, concerning the month of October, dedicated to the Heavenly Queen of the Rosary, it is again decreed, commanded, and granted. That the feast day of the most holy Rosary may be celebrated with singular honor and devotion by the people, a devotion which pertains to all the mysteries of the life, passion,

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and glory of Jesus Christ, our Redeemer, and of his immaculate Mother; to foster this growing piety and to increase public veneration, as has already been granted in several particular Churches, the aforementioned feast day and the Office of the Mother of God of the Rosary, assigned to the first Sunday of October, are commanded to be celebrated throughout the Church with a double ecclesiastical rite of the second class, so that it cannot be transferred to another day, unless the office of a higher rite coincides; observing the rubrics. Contrary provisions notwithstanding. Concerning these matters, the present decree of the aforementioned Congregation of Sacred Rites is ordered to be published. On September 11th of the year 1887, to the Most Holy Name of Mary, the Most Reverend Cardinal Bartolini, Prefect of the Sacred Rites. And the Most Reverend Salvati, Secretary of the Sacred Rites.

[*Latin ed. p. 203*]

203 FROM THE APOSTOLIC LETTER OF THE HOLY PENITENTIARY To the Most Eminent Penitentiary, addressed to the Bishops of Italy, concerning the suppression of tithes. To the Illustrious and Reverend Lords. In Italy, a civil law has been published which generally abolishes ecclesiastical tithes, and many Archbishops and Bishops have requested instructions on this matter from the Holy Father. His Holiness has deemed it fitting to refer their inquiries to this Holy Penitentiary, with the order to examine them and to provide the necessary guidelines to instruct the faithful and to direct their consciences with a uniform rule. Now, this Holy Penitentiary has recognized that the aforementioned law not only abolishes generally all tithes and other similar contributions, but also impoverishes the clergy to a greater extent, and notably in several dioceses. To the successors of those who today hold ecclesiastical benefices and have care of souls, a compensation is promised, but only if they reach the sum of 800 lire for the parish priests, and 6,000 lire for the Bishops, if, as a result of the abolition of tithes, their revenues are reduced below these amounts. To other beneficiaries, and to churches, places, as...

[*Latin ed. p. 204*]

204 To the churches and pious places of every kind, no grant is made, nor is any right civilly recognized. This impoverishment of the clergy places it ever more in a state inferior to that which is due to it in a Catholic nation, and, by depriving it of just temporal means, it makes it more difficult to fulfill its mission, to uphold the majesty of divine worship, and to assist the manifold needs of the poor. But what is more, this civil law wounds, in points of the utmost importance, the law of God, the law of the Church, and the fundamental principles of society. For it is a dogma of faith that the Church received from its divine Founder the nature of a true and perfect exterior society, with all its rights, which He willed to endow it with,

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independently of civil authority, which, on the other hand, is obligated to defend and protect it. To wish to separate the State from the Church, so that the State is not obligated to respect the supernatural fact of the existence of its divine prerogatives and the consequent laws, is to limit the sovereignty of God, to upset His works, and to deny to Him the power to obligate society and public authorities with His positive laws. This error has therefore been repeatedly condemned, and it is contrary to divine revelation.

[*Latin ed. p. 205*]

It has been condemned by the Church as being contrary to divine revelation. Now, among the rights which God has attributed to the Church, there is also the right to acquire and administer, independently of the will of any authority, goods and other temporal revenues. This right was conferred upon the Church by God, so that it might certainly and stably provide for the worship due to Him, for the sustenance of its ministers, and for works of charity. Indeed, for this purpose, it can also, by its own authority, prescribe to the faithful those contributions which it deems necessary. Therefore, civil law, which in its own name seeks to dispose of the goods and revenues of the Church, or to exempt the faithful from established contributions, directly contradicts divine law, and unjustly attributes to itself a power which it lacks. Furthermore, by violating the property of the Church, it weakens in the people the observance of the law, and shakes one of the most solid foundations of society, since the right of property of private citizens cannot seem more respectable than that which, for many reasons, is sacred. The Holy Church, moreover, considering the supreme importance of the end to which its properties and revenues serve, has always defended them from every usurpation, from the most ancient times. And the Holy Council of Trent, in conformity with the entire law, has repeatedly condemned what is opposed to it.

Indeed, among the rights which God has attributed to the Church, it is certainly this: that any goods and other civil revenues may be acquired and freely administered, without any dependence on any external authority. This right was conferred upon the Church by God, so that it might more safely and stably provide for the worship due to God, for the sustenance of its ministers, and for works of charity. Moreover, for this purpose, it can also, by its own authority, impose on the faithful those financial contributions which it itself judges necessary. Therefore, civil law, which in its own name seeks to dispose of the goods and revenues of the Church at its pleasure, and to exempt the faithful from the contributions established by ecclesiastical law, directly contradicts divine law, and unjustly attributes to itself a power which it lacks. Furthermore, since it violates the right of property of the Church, it weakens in the people the due reverence and observance of public and private law, and shakes one of the firmest foundations of human society; since the right of property of each citizen

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seems more respected, because it is, in many respects, sacred. The Holy Church, moreover, because of the supreme importance of the end to which the goods and revenues of the Church itself serve, has always continuously defended them from every usurpation, from the most ancient times. And the Holy Council of Trent (session 22, chapter 11, on ecclesiastical reform) has condemned, as opposed to the entire law, whatever is contrary to it.

[*Latin ed. p. 206*]

206 In the preceding ecclesiastical document, in Session XI, chapter XXI, concerning Reform, any person who usurps these goods and revenues, or prevents them from being received by the Church, is condemned; and in Session XXV, chapter XII, concerning Reform, the faithful are especially urged to pay the tithes. For these reasons, the aforementioned civil law, published in Italy, is of no value; and the conscience of the faithful remains obligated to pay the tithes as before. The Holy See made a similar declaration as early as 1853, when the Piedmontese government abolished tithes on the island of Sardinia (Acta Pii IX, vol. II, page 335), as the Supreme Pontiff Alexander III, writing to the Bishop of Vercelli, declared the imperial letters, by which exemptions from tithes were granted, to be utterly null and void (Title concerning Tithes, etc., chapter XXV). Therefore, even if that civil law had assigned adequate compensation for the tithes, and therefore had not caused any material damage to the Church, it would nevertheless have done an injury to the Church, by interfering with its affairs and rights, independently of the supreme authority given to it by God. You, Most Reverend Lord, should take care that your people are duly instructed on this matter, and generally on the divine origin of the rights of the Church, and that the Church is in no way subject to secular power. *[Latin text follows]* "Legibus se conformans, quemque anathemate damnat, qui bona redditusque Ecclesiae vel sibi usurpet vel quominus ab Ea percipiantur impediat: in Sessione vero 25, Cap. 12, item de Reformat. Fideles ut decimas solvant speciali modo adhortatur. Quibus de causis eadem lex civilis in Italia edita nullius est valoris; et Fidelium conscientia ad decimas velut antea pensitandas obligata perstat. Parem huic declarationem dedit S. Sedes ab anno usque 1853 cum Regnum Subalpinum decimas in Sardinia insula abolevit (Acta Pii IX, Vol. 2, Pag. 335); quemadmodum et Summus Pontifex Alexander III. ad Episcopum Vercellensem scribens , Imperatoris Literas, quibus a solvendis Decimis •concedebatur exemptio,prorsus nullas declaravit (Tit. de Decimis etc. Cap. 25). Quapropter etsi lex illa civilis parem ablatis Decimis compensationem assignasset, atque idcirco nullum in re utili detrimentum attulisset Ecclesiae, eidem tamen fecisset iniuriam, sese in eiusdem res iuraque ingerens sine ulla a suprema auctoritate, quam Ecclesia ipsa a Deo accepit, dependentia. Tu igitur, Illme ac Riñe Domine, etiam atque etiam cura ut populus tibi concreditus hac sup sr re, ut fas est, erudiatur: et generatim de divina iurium, quae Ecclesia possidet, origine;

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Eamque nulla prorsus ratione laicae Potestati obnoxiam esse. Quo vero efficacius in peculiaribus casibus conscientiae Fidelium..."

[*Latin ed. p. 207*]

LETTERS 207, secular. Furthermore, in order to provide more effectively for the cases of individual conscience among the faithful, you will be advised, and as soon as possible, along with the necessary Apostolic faculties, a practical instruction will be sent to the Apostolic College, collected with the necessary information. In the meantime, I wish you every good thing from God. Rome, August 25, 1887. With the utmost devotion in the Lord, R. Card. MONACO, Prefect. From the Sacred Congregation for Indulgences. DECREE concerning the extension of the Indulgence previously granted by Pope Clement XIII on August 2, 1760, to all Confraternities, Sodalities, or Congregations. Among the pious works which are commonly prescribed for gaining Indulgences, the visitation of a church or even a public sanctuary is particularly noteworthy. Indeed, Pope Clement XIII, desiring to promote the spiritual good of the brothers and companions of the Confraternities or Sodalities or Congregations existing everywhere and established by the authority of the Ordinaries, graciously granted, on August 2, 1760, that the same brothers and companions who are afflicted by some bodily infirmity or are detained in prisons, may enjoy all the Indulgences, by which the other brothers and companions are favored, provided that, if the visitation of the church is omitted, they faithfully and devoutly perform other pious works, which they are able to accomplish according to their ability; and that the same Supreme Pontiff commanded that this grace be granted through the prayers of each Confraternity or Sodality or Congregation. Moreover, in the year 1874, on May 8, the Most Reverend Fathers entrusted with the care of Indulgences and sacred Relics, at general meetings held at the Vatican, having considered a question, whether it was still necessary for each Confraternity or Sodality or Congregation to request from the Apostolic See...

[*Latin ed. p. 208*]

208. Concerning the question of whether the benefit of the Indult could be obtained, some held a positive opinion, and, together, they requested that the Holy Father grant the aforementioned Indult to the brethren and sisters of all Confraternities, Sodalities, or Congregations, without their special recourse, and Pope Pius IX, on February 25th of the year 1877, graciously granted the requested favor, although without making any special mention of the publication of the general Decree, as had been requested by the Sacred Congregation. From this, some concluded that it was not at all necessary for individual Confraternities, Sodalities, or Congregations to request this Indult for themselves; while others, not agreeing with this opinion, again raised the doubt: Does this concession (of the Clementine

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Indult) truly apply to all Confraternities, or Sodalities, or Congregations without a special recourse to the Holy See, which was previously required? To this doubt, the Eminent Fathers, in the general Congregation held at the Vatican on June 25th of the current year, in order to remove all doubt, responded: Affirmatively, and they requested that the Holy Father decree the promulgation of the Decree according to the resolution of the Sacred Congregation of February 25th, 1877. After a report on all of these matters was made to His Holiness, Pope Leo XIII, in an audience held by the aforementioned Secretary of the same Sacred Congregation on July 16th, 1887, the same Holy Father graciously declared and decreed, as is declared and decreed in the present Decree, that the aforementioned Clementine Indult is extended to all Confraternities, Sodalities, and Congregations, so that in the future, any Confraternity, Sodality, or Congregation will not need a special recourse to the Holy See in order to be able to benefit from the aforementioned Indult. Contrary opinions notwithstanding. Given at Rome, from the Secretariat of the same Sacred Congregation, on August 20th, 1887. Fr. THOMAS M. CARD. ZIGLIARA, Prefect. ALEXANDER, Bishop of Oenensis, Secretary.

[*Latin ed. p. 209*]

209 LETTERS from the Most Holy Lord, Pope Leo XIII, to the Bishops of Italy, concerning the Most Holy Rosary, Venerable Brothers. To our Venerable Brothers. You know how much trust we place, amidst the present calamities, in the glorious Virgin of the Rosary for the salvation and prosperity of the Christian people, for the peace and tranquility of the Church. — Remembering, on the one hand, that in times of great distress, Pastors and the faithful have always turned with confidence to the great Mother of God, a most powerful aid to Christians, in whose hands are placed all graces; and, on the other hand, persuaded that devotion to the Virgin under the title of the Rosary is supremely opportune for the special needs of our times, we have desired that this devotion be revived everywhere and established more and more widely among the faithful of the whole world. — We have already indicated, on several occasions, when encouraging the pious practice of the month of October in honor of the Virgin, the reasons, the hopes, and the manner in which it should be followed; and the entire Church, in every part of the earth, docile to our voice, has always responded with manifestations of singular piety to our invitation; and also, Acta, Tom. XX. fase. O Q XXXIII. You know well, in these anxious times, how much hope is placed in the glorious Virgin of the Rosary, for the salvation and prosperity of the Christian people and for obtaining peace and tranquility for the Church. Indeed, we remember that in the most serious calamities of the Church, both Pastors and the faithful have always turned to the glorious Mother of God, a most powerful aid to Christians, whose hands hold the treasures of all graces, filled with good hope; and

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we are also certain that devotion to the same Virgin, whom we invoke, is supremely opportune for the needs of our times, and that devotion to the Rosary should be encouraged more and more widely among the faithful of the Catholic world. We have already, on many occasions, when encouraging the pious practice of the month of October in honor of the Virgin, indicated the reasons and the manner in which it should be followed, and we have taken care that the entire Church, in every part of the earth, listening to our voice, should respond with extraordinary piety to our invitation.

[*Latin ed. p. 210*]

240 Letters: Once again, preparations are being made to pay to the Most Holy Virgin Mary, for an entire month, the daily tribute of devotion so pleasing to Her. — In this holy and noble endeavor, Italy has not been left behind, where piety towards the Virgin is so deeply rooted and so universally felt; nor do we doubt that even this year, Italy will give a beautiful demonstration of its love for the great Mother of God, and will provide us with new reasons for consolation and comfort. — However, we cannot refrain from addressing you, Venerable Brothers, with a word of special exhortation, so that with renewed and singular dedication, the month dedicated to the Most Holy Virgin Mary of the Rosary may be sanctified in all the Italian dioceses. It is easy to understand the particular reasons that compel us to do this. — From the very time that God called us to govern His Church on earth, we have striven to put into practice all those means that are within our power, and which we believed to be most suitable for the sanctification of souls and the expansion of the Kingdom of Jesus Christ. We have excluded no nation, nor any people from our daily concerns, knowing full well that the Redeemer has shed His precious Blood for all on the Cross, and has opened to all the Kingdom of Grace and Glory.

— Nevertheless, let no one be surprised if we show a special affection for the Italian people. For the Divine Master Himself, Jesus Christ, preferred all others...

[*Latin ed. p. 211*]

These are times of grace and glory. However, it is not surprising that we regard the Italian people with particular favor: for even the Divine Master, Jesus Christ, chose Italy among all the parts of the world as the seat of His Vicar on earth, and in the counsels of His providence, He decreed that Rome should become the capital of the Catholic world. In this way, the Italian people are called to live in closer proximity to the great Father of the Christian family, and to share more especially in its joys and sorrows. And unfortunately, in our Italy, there are presently very grave reasons for sorrow in our hearts. The Christian faith and morals, a most precious inheritance passed down to us by our ancestors, and which, at all times, have been the glory of our homeland and of the great Italians, are now, either insidiously

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and almost secretly, or openly and with shocking cynicism, being attacked by a group of men who seek to deprive others of the faith and morals that they themselves have lost. It is easy to see in all of this, more than anything else, the work of sects, and of those who are more or less docile instruments in the hands of them. Here in Rome, where the Vicar of Christ has His seat, the efforts of these people are concentrated above all, and their malice is manifested with all its untamed ferocity. Indeed, it is not necessary for us to explain to you, Venerable Brothers, how deeply our hearts are grieved when we see so many things that are dear to us...

[*Latin ed. p. 212*]

2i2. The tenacity and ferocity of their satanic intentions. We need not tell you, Venerable Brothers, of the bitterness with which Our heart is filled when We see the souls of so many of Our most beloved children exposed to such grave dangers. And this Our bitterness grows when We see Ourselves rendered unable to oppose these great evils with that salutary efficacy which We would desire, and which We, indeed, have the right to possess; for the conditions of life to which We are reduced are known to you, Venerable Brothers, and to the whole world. For these reasons, We feel a greater need to invoke the help of God and the protection of the most holy Virgin Mother.

Let the good Italians pray fervently for their misguided brothers, and let them pray for the common Father of all, the Roman Pontiff, that God, in His infinite mercy, may accept and grant the common prayers of the children and the Father. And, moreover, Our most fervent and steadfast hopes are placed in the most glorious Queen of the Rosary, who, from the very time that She began to be invoked with this title, has shown Herself readily helpful in the needs of the Church and of the Christian people.

We have already recalled these glories and the remarkable triumphs achieved against the enemies of the faith, for the benefit of those souls so greatly exposed to danger. Indeed, Our sorrow is all the greater because We see Ourselves, for these very reasons, entirely prevented from exercising that salutary power which We have, by right and merit, to oppose these great evils. For the conditions in which We are placed are known to you, Venerable Brothers. Therefore, We feel a greater need to implore the help of God and the protection of the most holy Virgin Mother.

Let the good Italians pray fervently for their misguided brothers; and also for the universal Father of all, the Roman Pontiff, that God, in His infinite mercy, may accept and grant the common prayers of the children and the Father. And, moreover, with regard to this, Our most fervent and steadfast hopes are placed in the most glorious Queen of the Rosary; who, indeed, from the very time that She began to be invoked with this title, has immediately shown Herself helpful in all the needs of the Church and the Christian people.

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We remember these glories and the remarkable triumphs achieved against the Albigenses, enemies of Christ, and other acts of kindness, which, indeed, not only benefit the Church, which has been greatly attacked and afflicted, but also the present prosperity and the future of the peoples and nations, as much as is permitted to them in these present times.

[*Latin ed. p. 213*]

LITI 213. The Albigenses and, against other powerful enemies, the calamities of the Church, the same prodigies of power and goodness which the most holy Virgin has always wrought, not only for the Church itself, for the profit of the Church which is persecuted and afflicted, but also for the temporal prosperity of peoples and nations. Why should not the same marvels of power and goodness be again wrought by the most holy Virgin, for the benefit of the Church and her Head, and of the entire Christian world, if the faithful people were to renew, on their part, the splendid examples of piety, given by their ancestors in similar circumstances? Therefore, it is necessary that We, in order to render this most powerful Queen more pleasing to Us, intend to honor Her always more under the invocation of the Rosary, and to increase Her cult. And so, beginning from the present year, We have decreed that the feast of the Rosary, of the second class, as they say, should be celebrated throughout the entire Church. And for the same reason, We ardently desire that the Catholic people of Italy, with a special devotion, but especially in the coming month of October, should turn to this most excellent Virgin, and bring a sweet and pleasing influence to Her maternal Heart, praying for Her for the exaltation of the Church and the Apostolic See, for the liberty of Jesus Christ in the world, for public peace and prosperity. And since the effect of prayers will be all the greater and more certain, the better the disposition of the one who prays, therefore, We, Venerable Brothers, earnestly exhort you that, with all the strength of your pious and religious spirits, you encourage a lively and active devotion to...

[*Latin ed. p. 214*]

214 Letters: To improve the dispositions of those who pray, we earnestly exhort you, Venerable Brothers, that with all the efforts of your zeal, you may strive to awaken in the peoples entrusted to you a vigorous, living, and active faith, and to call them back to grace and to the faithful fulfillment of all Christian duties through penance. — Among these, given the conditions of the times, it is fitting to consider as of paramount importance the free and sincere profession of the faith and morals of Christ, by which all human respect is overcome, and the interests of religion and the eternal salvation of souls are placed before all other things. For it is not fitting to dissimulate that, although through divine mercy the religious sentiment is still alive

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and widely spread among the Italian people, nevertheless, even among them, through the malicious influence of men and of the times, religious indifference has begun to creep in; whereby that reverence and filial love for the Church, which were once the glory and noble boast of the greater [men], is diminishing. — May it be through your efforts, Venerable Brothers, that the Christian sentiment, the interest in the Catholic cause, the trust in the protection of the Virgin, and the spirit of prayer may be powerfully awakened in your peoples. There is no doubt that this invincible Queen, invoked by so many sons and peoples, will respond to their prayers, and will, with maternal care, guide them back to the grace of God and to the fulfillment of their religious duties.

[*Latin ed. p. 215*]

Having invoked the Lord with such favorable dispositions, may He graciously respond to their voices, console Our sorrow, and crown Our efforts for the sake of the Church and Italy, restoring better days for both. With these sentiments, We impart to you, Venerable Brothers, to the Clergy, and to the people entrusted to the care of each of you, the Apostolic Blessing, a pledge of the most excellent graces and favors from Heaven. From the Vatican, on the 20th of September, 1887.

"Our spirit is raised and strengthened, and pious endeavors for the Church and Italy are encouraged, so that better times may be brought about for both."

With these sentiments, Venerable Brothers, and to the Clergy and people entrusted to the care of each of you, We impart the Apostolic Blessing, a pledge of the most excellent graces and favors from Heaven. From the Vatican, on the twenty-seventh day of September in the year 1887.

LEO XIII.

A Brief Document Concerning the Sacerdotal Jubilee.

LEO XIII. To all the Christian faithful who shall read these words, greetings and the Apostolic Blessing.

Since, with God's favor, the solemnity of Our sacerdotal jubilee will be celebrated on the first day of the coming year, all nations and families of every order throughout the world rejoice as one heart and one soul, and in this time of difficulty, they offer testimonies of their faith, devotion, and congratulations to Us, who are divinely placed in the exalted See of the Blessed Peter.

These things received, We give thanks to God, who consoles Us in Our sorrow, and We implore Him without ceasing, that He may be merciful and bless the entire flock of the Lord, and that He may grant the peace and concord which have long been desired.

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Moved by the significance of these expressions of love and ancient piety, and encouraged by the prayers addressed to Us for this purpose, We have considered it fitting that all the children, through the celebration of their parent, may obtain some benefit for their eternal salvation, and that the treasures of the Church, which God has entrusted to Us, may be preserved. Therefore, through the mercy of Almighty God, and through the intercession of the Blessed Peter and Paul,

[*Latin ed. p. 216*]

216. Letters. Confident in His authority, We command to all and each of both sexes, Christian faithful who come to Rome on the occasion of Our sacerdotal jubilee, that they publicly and openly, in the name of their people, demonstrate piety and obedience, rendering due honor and obedience to the supreme authority entrusted to Us by God; and also, to all of both sexes who, with mind and heart, undertake these pilgrimages to the City, We grant absolution; and to all and each who, in any way, contribute to the good and happy outcome of these pious pilgrimages, if they have preceded the novendial prayer with the recitation of one-third of the Holy Rosary on the day of Our sacerdotal jubilee, that is, on the coming Kalends of January, and if, within the established time for these pious pilgrimages, they have repeated this novendial prayer, and if, truly penitent and having confessed, they have visited their parish church or any other church or public oratory, and there, with the concord of the Princes of the Christian faith, with the extirpation of heresies, with the conversion of sinners, and with the exaltation of the Holy Mother Church, they have poured forth pious prayers to God, then on the day of this aforementioned solemnity, and on the immediately following feast day, We grant the full remission of all their sins in the Lord, for the novendial prayer, within the time previously mentioned, according to their own choice. Furthermore, to all and each who, at least with a contrite heart, have celebrated these novendial prayers, as above described, on any of these days, We remit three hundred days of the penitences prescribed to them, or of any other penitences owed, according to the usual form of the Church. We grant that all these indulgences, remissions of sins, and relaxations of penances, may also be applied to the souls detained in Purgatory, and We decree that this concession shall be valid only for this year. To those who do the contrary, notwithstanding, We declare that they will incur the penalties prescribed by law. We wish that to these present Letters, whether transcribed or printed, signed by the hand of a public Notary, and sealed with the seal of a person holding ecclesiastical dignity, the same faith be given as would be given to the present Letters if they were exhibited or shown. Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 1st of October, 1887, in the tenth year of Our

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pontificate. (L. f. S.) M. Cardinal LEDOCHOWSKI.

[*Latin ed. p. 217*]

217 LETTERS in the form of a Brief from the Most Holy Pope Leo XIII to Anthony Brugidon, director of the Sodality of the entire world dedicated to the Reparation of the injuries done to the Catholic peoples. LEO PP. XIII, Beloved Son, health and the Apostolic Blessing. We have learned with joy the news you conveyed in your letters dated the ninth of September, concerning the happy progress that your sodality has made in the past year, thanks to your efforts, which bears the name "Reparation of the injuries done to the Catholic peoples." Since we consider this institution to be very opportune for the needs of the times, and we have adorned it with our praise and with gifts from the heavenly treasures of which we are stewards, it could be nothing more pleasing to Us than to know that it is spreading widely in many dioceses, and that the number of the faithful who, united in prayer, contribute to the support of the Church, which is the source of all graces, is increasing. Therefore, while we give thanks and praise to the supreme Author of all good things, God, we also congratulate you, Beloved Son, on the abundant fruits that you have reaped from your industry and piety, and we commend the pastoral care of the Sacred Ministers and pastors who have deemed it fitting to foster the spread of this salutary work among their flocks, as well as the pious devotion of the faithful who have dedicated themselves to it. Moreover, from this happy progress of so excellent an undertaking, we take a favorable omen that new members will be added to the sodality day by day, and that no part of the Catholic world will fail to show itself favorably disposed to this work of piety and religion. Furthermore, we confidently expect that this harmonious prayer for good things will be followed by greater benefits from the merciful God, who, looking upon His people, will deliver them from present troubles and remove the fear of greater evils, through His intervention. In the meantime, Beloved Son, we invoke divine blessings upon you, upon the sodality of which you are director, and upon all those who are working to promote it, and we impart, as a testament of our paternal charity, the Apostolic Blessing. Given at Rome, near St. Peter's, on the fifth day of October, in the tenth year of Our pontificate. LEO PP. XIII.

[*Latin ed. p. 218*]

218 FROM THE CONSISTORY ACTS, Thursday, November 25, 1887, a Secret Consistory was held in the Vatican buildings, in which, after the acceptance of the title of Saint Mark, which was carried out by His Eminence Cardinal Rampolla del Tindaro, as procurator for His Eminence Cardinal Celestine, and after the dismissal of the title of Saint Prisca, Our Holy Father Leo XIII gave the following address: Venerable Brothers, as the anniversary approaches in which, fifty years ago, having received the

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priestly consecration, we first ministered at the altar, we offer the greatest, as is fitting, thanks to the Immortal God, who has so benevolently preserved us to this age. Moreover, we cannot restrain ourselves from feeling, and we are pleased and grateful, that the thought of it traverses the entire Christian world, not in an unusual way. And we will not conceal what is apparent, and which should be attributed to others, not to Ourselves: you perceive, Venerable Brothers, how great a public joy is signified by the great consensus of will, by the varied and exquisite testimonies of piety. All classes of people, from all parts of the world, privately and publicly strive to show us every kind of service, through embassies, letters, pilgrimages, or long journeys undertaken at their own expense, and through a great number of gifts, of which it seems that the material and the work are surpassed by the will. In this matter, the goodness and power of God shine forth wonderfully, who strengthens and supports His Church in its great labors; who, by the counsel of His providence, draws a rich harvest of good even from evils themselves; and also the glory of the Church shines forth, which shows the divine origin and life of its own being, and the divine spirit by which it is governed and lives, so that the minds and wills of the faithful are united with each other, and also with the supreme Pastor of the Church. We, Venerable Brothers, signify to you, in your presence, the feelings of joy that we experience in all these things, and we openly declare that our mind has been deeply moved by so much devotion of the Christian people towards us, and that it will never be possible for their memory to fade from us at any time.

[*Latin ed. p. 219*]

FROM THE ACTS OF THE CONSISTORY 219. But another reason moves the people of the Church in this our Italian nation. For, not intending to embrace the study of peace, but urging war against the Church, they, under the pretext of justice, abuse laws, and do not hesitate to inflame the popular wrath against this Apostolic See, thus causing Us and all Catholics a recent and grave sorrow. What else has been done, with that recent sanction of civil power, than to exempt the citizens of Italy from paying ecclesiastical tithes by law, from those who have no authority in this matter, except to violate that law by which the Church is given the right freely to acquire, retain, and administer the goods of this life; what else has been done than to cast the condition of the clergy into greater hardships, diminishing their ability to provide for the needs of divine worship, to relieve the poverty of the poor, and to preserve the dignity and honor of the sacred ministry itself? And these are not the limits of our cause's distress. The danger to the Church is great, and most serious, from the very law that is said to be necessary, and which derives its principle from those doctrines by which the divinely established state of the Church is overturned. It concerns the revision of the Church's patrimony by new laws of civil power, which aim

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to remove, by all means, the force of the canonical laws that have been enacted concerning the Church's goods, and to transfer all authority and right in those goods from the Church to civil power; and the administration of those same goods is to be entrusted to laymen elected by the people, who, with the authority of the Church removed, are to be administrators of the republic and subject only to civil jurisdiction. You see, Venerable Brothers, what wound this new law inflicts on the Church, if it should be enacted, because it would not only disturb discipline, but would also injure the power and freedom of the Church, so that, while on the one hand, laymen are secretly given weapons to harass the Church, on the other hand, the Church itself, in its ministry, in the very matter of divine worship, in the very duty of the Catholic institution, is forced to be subject to the will of others. — There is another cause that does not allow Us to be free from concern: We fear for the youth, since many of them, as students in public schools, are increasingly drawn away from the authority of the Church, even in the very foundation of religion. This matter is especially clear to Catholics, how much it deviates from justice, and how much public and private evil it contains. Considering these dangers, We are greatly distressed for this Catholic—

[*Latin ed. p. 220*]

220 FROM THE CONSISTORY ACTS, concerning the cause of the Licae nation, since We consider the grievous evils by which the people are miserably overwhelmed, through contempt of religion. We declare this today, from this place, to you, Venerable Brothers, and to the entire Catholic world, praying that God may turn the public affairs of Italy for the better, and that all plans and actions may be directed towards the true good and honor of the nation. —Furthermore, Venerable Brothers, let us place all our trust in His power and goodness: for God sees from His holy mountain the labors of His people, and although He may delay the manifestation of His power, He does not allow His Church to lack opportune help, according to His own wise counsel. Now, the reason of the Apostolic office demands that We appoint new pastors to various churches throughout the Catholic world. Then, Holiness proposed the following churches: The CATHEDRAL CHURCH of VALLIS-VIDONIS is vacant, due to the death of the Most Reverend Victor Maréchal, the last Bishop of that see, who died outside the Roman court; with the favor of the Most Reverend Edmund Louis Victor Bougaud, a priest of Dijon, for the nomination by the illustrious Monsieur Jules Grevy, President of the French Republic. The Reverend Father Edmund Louis Victor Bougaud, born in Dijon in the state, of legitimate, Catholic, and honorable parents, and having surpassed his sixty-fourth year, has renounced his position as General Vicar in spiritual matters of the archdiocese of Orleans, which he held for twenty-five years. The CATHEDRAL CHURCH of BELLICEN is vacant, due to the free and voluntary

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resignation of the Reverend Father Peter John Joseph Soubiranne, which was carried out before HOLINESS, and was accepted by the same, and the subsequent assignment of the titular archiepiscopal see of Nepcesaria was made with his favor; with the favor of the Reverend Father Louis, Henry, Joseph Luçon, a priest of the archdiocese of Angers, for the nomination by the illustrious Monsieur Jules Grevy, President of the French Republic. The Reverend Father Louis Henry Joseph Luçon, born in the town commonly called Maulévrier in the archdiocese of Angers, of legitimate, Catholic, and honorable parents, and having surpassed his forty-fifth year, having previously been awarded the doctorate in sacred theology and canon law, has diligently devoted himself to ecclesiastical duties. The EPISCOPAL CHURCH of NYSSEN, under the Archbishop of Caesarea, is vacant, due to the assignment of the titular see of Saints John and Paul.

[*Latin ed. p. 221*]

FROM THE CONSISTORY ACTS 221: The Most Reverend and Eminent Lord Placidus, Cardinal Priest of the Holy Roman Church, bestowed the benefice of the Cathedral Church of Cáceres in the Philippine Islands upon the Reverend Father Anthony of Poland, a priest of the Patriarchate of Venice; who was also appointed as a coadjutor bishop with the right of succession to the Most Reverend Father John Anthony Farina, Bishop of Vicenza.

The Cathedral Church of Fulda was bestowed, through translation, upon the Reverend Father George Kopp, to the Archbishopric of Wratislavia, with the favor of the Reverend Father Joseph Weyland, a priest of the Diocese of Limburg.

The Cathedral Church of Massen was bestowed, through translation, upon the Reverend Father John Baptist, Alexius Thomas, the last bishop of that see, having died outside the Roman Curia, with the favor of the Reverend Father Amilcar Temetti, a priest of the Diocese of Massen.

The Cathedral Church of Bovino was bestowed, through translation, upon the Reverend Father Salvator Brunonis Bressi, of the Order of the Capuchin Minor Friars, to the Metropolitan See of Hydruntina, with the favor of the Reverend Father Michael of Iorio, a priest of the Diocese of Penne.

The titular episcopal church of Zamen, under the Archbishop of Carthage, was bestowed, through translation, upon the Reverend Father Frederick Cao, the last bishop of that see, having died outside the Roman Curia, with the favor of the Reverend Father Frederick Mascaretti, of the Discalced Carmelites, who is now Bishop of Segusia.

The Cathedral Churches of Macerata and Tolentino, perpetually and canonically united, were bestowed, through translation, upon the Reverend Father Sebastian Galeati to the Metropolitan See of Ravenna,

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with the favor of the Reverend Father Robert Papiri, a priest of the Archdiocesan of Fermo.

The titular archiepiscopal church of Neocaesarea was bestowed, through the assignment of the title of Saint Thomas in Paris, upon the Most Reverend and Eminent Lord Caietan, Cardinal Priest of the Holy Roman Church, Aloisi-Masella, with the favor of the Reverend Father Peter John Joseph Soubiranne, the retiring Bishop of Bellice.

The titular archiepiscopal church of Nicomedia was bestowed, through translation, upon the Reverend Father Leonard Mellano, of the Discalced Carmelites, to the Metropolitan See of Verapoly, with the favor of the Reverend Father Francis Cassetta, Bishop of Amathe.

The Cathedral Church of Alatri was bestowed, through translation.

[*Latin ed. p. 222*]

222 FROM THE CONSISTORY ACTS, concerning the late Peter Saulini, that Bishop, who died outside the Roman Curia, through the favor of the Reverend Father Dominic Francis Giordani, titular Bishop of Areopolis. The CATHEDRAL CHURCH of Corisope and Leon, vacant, due to the death of the Reverend Monsignor Anselm Nouvel, the last Bishop who died outside the Roman Curia, through the favor of the Reverend James Theodore Lamarche, a priest of Paris, at the nomination of the most illustrious Man, Julius Grevy, President of the French Republic. The CATHEDRAL CHURCH of Saint Dionysius, vacant, due to the death of the Reverend Monsignor Joseph Coldefy, the last Bishop, who died outside the Roman Curia, through the favor of the Reverend Frederick Fuzet, a priest of the diocese of Nîmes, at the nomination of the most illustrious Man, Julius Grevy, President of the French Republic. The CATHEDRAL CHURCH of Tarantasia, vacant, due to the translation of the Reverend Father Peter John Pagis to the Cathedral See of Verdun, through the favor of the Reverend Peter Emmanuel Bouvier, a priest of the diocese of Vaison, at the nomination of the most illustrious Man, Julius Grevy, President of the French Republic. The CATHEDRAL CHURCH of Nivari, or Saint Christopher of Laguna, vacant, due to the resignation of the Reverend Father Hyacinth Mary Cervera and Cervera, willingly and freely carried out and admitted by HIS HOLINESS, and his subsequent translation to the See of Majorca, through the favor of the Reverend Raymond Torrijos Gomez, a priest of the diocese of Bonches, at the presentation of the Most Serene Queen, Regent of the Catholic realm. The PATRIARCHAL CHURCH of Constantinople, vacant, due to the death of the Reverend Monsignor James Gregory Gallo, the last Patriarch, who died near the Roman Curia, through the favor of the Reverend Father Julius Lenti, Archbishop of Sydon, and Vice-Legate in the City. The METROPOLITAN CHURCH of La Plata, in the Bolivian territory of South America, vacant, due to the death of the Reverend Monsignor Peter Joseph Puch and Solona, the last Archbishop, who died outside the

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Roman Curia, through the favor of the Reverend Peter Joseph Caietani de la Llosa, a priest of La Plata. The CATHEDRAL CHURCH of "Wroclaw," vacant, due to the death of the Reverend Monsignor Robert Herzog, the last Bishop, who died outside the Roman Curia, through the favor of the Reverend Father George Kopp, Bishop of Fulda. The TITULAR EPISCOPAL CHURCH of Callipolis, under the Archbishop of Heraclea, vacant, due to the death of the Reverend Monsignor Rosario Frungillo, the last Bishop, who died outside the Roman Curia, through the favor of the Reverend Father 7.

[*Latin ed. p. 223*]

FROM THE CONSISTORY ACTS: 223. Vincentius Molo, a priest of the Archdiocese of Milan, who was also appointed as an Apostolic Administrator for the faithful residing in the County of Ticino. The CATHEDRAL CHURCH of Cassovia was transferred to the See of Waitzen, with the Reverend Father Constantinus SSnuster being appointed, favored by the Reverend Father Sigismund Bubics, a priest of the Diocese of Quinquecclesia, by the nomination of His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, in the Apostolic manner. The titular CHURCH of Tamasen, under the Archbishop, was transferred to the See of Madurai, with the Reverend Father Alexius Canoz of the Society of Jesus being appointed, favored by the Reverend Father Valerianus Menendez Conde, a priest of the Diocese of Treves; who was also appointed as an Auxiliary to the Most Reverend and Reverend Lord Michael, with the title of Saints Quiricus and Julitta of this beloved City, and to the Reverend Cardinal Paya and Rico, Archbishop of Toledo. The titular EPISCOPAL CHURCH of Gabalitan, under the titular Archbishop of Seleucia, was transferred due to the death of the late Bishop Julius Lepley, who died outside the Roman Curia, with the Reverend Father Iacobus Clazer, a priest of the Diocese of Przemyśl, being appointed; who was also appointed as an Auxiliary to the Reverend Father Lucas Solecki, the Bishop of Przemyśl of the Latin Rite. The titular EPISCOPAL CHURCH of Amyzonien, under the Stauropolitan Archbishop, was transferred with the Reverend Father Idelphonsus Ioannes Baptista Borgna to the titular Archiepiscopal Church of Marcianopolitan, favored by the Reverend Father Henricus Feiten, a priest of the Diocese of Treves; who was also appointed as an Auxiliary to the Reverend Father Michael Felices Korum, the Bishop of Treves. The CATHEDRAL CHURCH of Szathmar was transferred with the Reverend Father Laurentius Schlauch to the See of Magno Yaradin, favored by the Reverend Father Julius Maszlényi, a priest of the Archdiocese of Strigonia, by the nomination of His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, in the Apostolic manner. Furthermore, the same Holiness also granted the following churches, which had been conferred previously through His

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Letters bearing the Fisherman's Seal: To the ARCHIEPISCOPAL titular CHURCH of Nisiben, the Reverend Father Leo Meurin of the Society of Jesus, the titular Bishop of Ascalon, was appointed. To the BENVERENSE SEE, separated from Colorado, and recently in Ca-

[*Latin ed. p. 224*]

224 FROM THE ACTS OF THE CONSISTORY, the titular see erected was transferred to R. P. Joseph Maçhebpuf, titular Bishop of Epiphanea, and assigned to the churches of Hexham and Newcastle. R. P. Henry O'Collaghan, Rector of the English College here in Rome, was appointed Domestic Prelate to the Most Holy See. R. P. Maturinus Ricarda, from the Congregation of the Holy Spirit, was promoted to the titular see of Paphos, as Apostolic Vicar of Senegal and Gambia. R. D. Augusto Coyset, from the Apostolic Vicariate of Southern Kajainga, was granted the titular church of Cardica. For the titular church of Milevitan, R. D. Charles La Vigne, of the Society of Jesus, Apostolic Vicar in Cattayam, was appointed. R. D. Adolphus Medlycot, Apostolic Vicar to Trichoor, was appointed to the titular church of Tricomiens. R. D. Alphonso Iposten, of the Dominican family, was appointed to the titular church of Marcianense, as Apostolic Vicar for Curaçao. R. D. Vincentium Hood, of the Order of Preachers, was appointed perpetual coadjutor to the Archbishop of Port of Spain, with the Episcopal title of the church of Ephaestenae. Today, the Bishop of Madurense was assigned a perpetual coadjutor in the person of R. D. Joseph Faseuille, with the title of the church of Patara. Furthermore, the Bishop of Denver was granted a perpetual coadjutor in the person of R. D. Nicolaum Matz, with the title of the church of Telmissus. To the Bishop of Treves, the auxiliary R. D. Henricum Feiter was granted, with the titular church of Amyzoniensem. Finally, a foundation was established for the metropolitan church of Piata in Bolivia.

[*Latin ed. p. 225*]

22. FROM THE HOLY CONGREGATION OF THE COUNCIL OF ALBANO. REGARDING THE SERVICE OF THE CHOIR. June 18, 1887. Session 24, Chapter 12, Concerning Reforms. SUMMARY OF FACTS. By Apostolic Letters, concerning choirs, dated March 10, 1667, Pope Alexander VII founded a collegiate church in the town of Ariccia, in the Diocese of Albano, which consisted of ten canons, including the Archpriest-Parish Priest. At approximately the same time, the illustrious Sigismund Chigi, in order to follow the example of the Holy Pontiff, his relative, wished to found one canonry as well, and for this reason it was called the "second foundation," and thus "the entire chapter, together with the Archpriest, was joined to the number of eleven canons." Approximately a century later, and precisely in the year 1764, the pious woman Felli-Silveri, from all her possessions, arranged for the erection of two new canonries, which therefore constituted

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the "third foundation." Furthermore, it is said that the canonries of the second foundation obtained their own administration and were exempt from certain Masses; but this is not the matter under discussion today; rather, the entire controversy concerns the canons of the first and third foundations. Indeed, it was stipulated in the agreement made by the chapter and in the bull of erection for the two new canonries, in Article VI, that the new canons should construct two seats in the extreme part of the choir, always maintaining the last place among the canons; in Article X, that they should be exempt from certain Masses celebrated in the church; and in Article XV, that they should be exempt from the assistance and distributions of the Mass.

[*Latin ed. p. 226*]

328. ALBANENSES. Erant excludendi ab orationibus pro defunctis, quae in quolibet die secundo feria celebrabantur. Sed eis non placuit servare locum inferiorem in perpetuum, cum canonicis, qui erant valde locuples, hoc eis negabant: itaque, cum capitulo aguerunt, ut possent ad ascensum admitti, spondentes se vicissim paratos esse ad turnum missarum cum canonicis antiquae missae ferendum; itemque rogaverunt, ut possent et intervenire et lucra percipere missarum de requie in diebus secundo. Quibus petitionibus, cum aures benignas obtinuisset a capitulo, conventio inita est, quam Sacra Congregatio Ordinum decreto diei 18 Novembris 1769 probavit. Sic constituti, procedebant usque ad annum 1858, quo tempore, cum Episcopus illam ecclesiam visitavit, et vidit sacras aedes dirutas et sacrarium paramentis et utensilibus indigentem, proposuit, ut quatuor canonicatus de antiqua massa, tunc vacantes, supprimantur. Convocatum est itaque capitulum die 21 Iunii 1858, et ex quatuor qui interveniebant, tres pro affirmatione steterunt, et unus obstitit. Hi autem omnes erant de massa; canonici enim tertiae erectionis non aderant, eo quia unum beneficium tunc vacabat, alterum vero a senili et caeco canonico Forti occupabatur. Interea, capituli voto SSmo delato, ipse apostolicis litteris diei 31 Augusti 1858, quatuor praefatos canonicatus supprimuit, eorumque redditus ita divisit, ut 20 scutata ad archipresbyterum, 20 ad canonicum theologum, 10 pro expensis puellis cathechesi intervenientibus, reliquum vero, id est 190 scutata, ad sacrarium et fabricam quotannis applicaretur. Sed, ut quisque facile intelligit, canonicatuum suppressio onus augebat; frequentius enim canonici ad hebdomadae et missarum vices subeundam cohibebantur. Itaque statim protestationes ex parte canonicorum tertiae erectionis datae sunt: senciunt enim se ab initio, proiure ascensum acquirendo ad turnum inter 12, non vero inter 8 tantummodo canonicos ferendum convenisse: ideoque non

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posse hodie cogari ad maius onus quam ab initio acceptaverant.

[*Latin ed. p. 227*]

ALBANE!*. 227 Concerning the matter of assignments! This is all the more so because the reduction of canons and the subsequent, more frequent rotation of duties in the chapters had not been agreeable to them. Hence, the dissensions; in order that these might be resolved, the old canons requested that the Apostolic See define whether the canons of the third establishment were obligated to participate in the rotation, according to the present condition of the chapter, or according to the ancient number of canons. The *Synoptica* discusses the LAWS OF THE CANONS OF THE FIRST ESTABLISHMENT. This was favored, in opposition to it, because, according to the convention of the year 1779, the canons of the third establishment are obligated to celebrate, in turn, with the other ten capitulars, a Mass for the benefactors; to celebrate a Mass at sunrise after the sung Mass, and in the afternoon to attend the sung Masses of any day of the week, and to chant them according to their turn. Furthermore, the ″turn″ ″divides among the individual canons of the same order, or jurisdiction, the exercise″ *Rota decis. 186, num. 1*, part. *It Rec.* And this division implies a certain equality among all, namely, that all those who are included bear an equal share of the service. The concept of division among many implies that the parts are equal among all. Therefore, when a turn for some office or service is established in the chapters, without any added limiting clause, it is necessarily understood that that service or office is to be borne by each, without distinction, in equal measure and for an equal period of time. This is demonstrated by common usage and the common mode of understanding; this is confirmed by the most common principles of law, namely, ″where the law does not distinguish, neither ought we to distinguish″ from *L. De pretio ff. De public, in rem act*, and also ″general words are to be understood generally″ from *c. Quia circa 22 De priv.*; this, indeed, the canons of the *novae* establishment do not properly deny. For they themselves acknowledge that, from the beginning, and subsequently until these very times, it has been plainly established and accepted that, with equal shares, the burden...

[*Latin ed. p. 228*]

228. The duties of the Divine Office should be divided among all [the members of the community]; although some may claim that this rule is subject to a special reason in certain circumstances. However, it can be affirmed with certainty that the order of service or office should be divided among all with equal consideration. But, as everyone knows, this division cannot remain unchanged, nor can it always remain the same as at the beginning; but rather, it must be adapted daily to the flow of events and the changing circumstances. It may happen that the number of canons increases, either

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due to new foundations or the addition of coadjutors, or conversely, the number may decrease in order to grant indulgences or to accommodate long-term infirmities; in such cases, a new division of duties must be made, and the burden must be redistributed to each, that is, according to the circumstances, either assigning or increasing the duties. This conclusion is confirmed both by common and accepted practice, as well as by the rules of law. Indeed, it has often happened; hence the common saying that when one of the canons is absent, "the one who follows should take his place." But this is also evident from the principles of law: as Celsus states in leg. 1 ff. De usu f. acer., "we have shares in common," that is, in a division among many, each part is indistinctly subordinate to the number of those who participate in the act of division. Therefore, even in this matter, the right to increase, and conversely, not to decrease, is verified: just as in the case of legates, if one of the collegiates is absent, his share increases the share of the remaining ones, whatever their connection, loc. cit. and L. 34 ff. De leg. I etc.; so also here, if one of those obligated to serve is absent, his share increases the share of the others. This must also be maintained for this reason, namely, so that the service of the Church is never neglected, and so that the duties, introduced for the convenience of the canons and for the greater order and continuity of service, do not become a hindrance to the worship of God. Indeed, if in the case of one...

[*Latin ed. p. 229*]

ALBANEN. If a deficiency occurs and others do not take the place of the one who is absent, the service and divine worship would be lacking for that time; which is utterly scandalous, and would be a fatal and anticanonical occurrence for the church of Tournus. Therefore, it must be held, with the greatest certainty, that the turn of service should be divided equally among all those who live under this law, and that those who participate are also obligated to make up for the proportionate deficiencies and shortcomings of others. Thus, in the matter at hand, when the canons of the first and third establishments, in the convention of 1769, have approved that the turn of Masses should be borne by all indistinctly, it follows that all are equally obligated for this service, and also to make up for the proportionate, that is, the equal among all, omissions of others. And since today some of the canonries have been suppressed, the reason does not appear why this portion of service, which is proper to the suppressed benefices, should not be increased to all indistinctly and equally. The canons of the third establishment object, saying that they simply did not accept the turn, but rather the turn with ten other confreres, and therefore they agreed to bear the twelfth part of the service. But 1. this assertion seems gratuitous, for in the alleged convention, there is never any mention of a partial, limited, or defined portion of service being accepted, but rather the word "turn" is used throughout, as indicated above: moreover, the term "turn," accord-

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ing to what has been said, signifies an equal division among all, and one that varies according to the number of those serving. But 2. the argument presented is perhaps too strong, and therefore, according to a well-known aphorism, "proves nothing." And it truly seems that this objection is too strong, because if it were admitted that the canons of the third establishment have accepted only the twelfth part of the service, it would necessarily follow that they would not care if any of their confreres were excused from service due to illness, or for some other reason; nor would they benefit, even if the number of those who are to serve and who are assigned to the turn were to increase; but they would always and firmly bear the twelfth part of the service each year; which is too much, and the canons of the new establishment do not seem to admit.

[*Latin ed. p. 230*]

230. The Albanes. Furthermore, Canon Giuliani states that the canons of the third establishment were not consulted, nor did they participate in the chapter meeting in which the suppression of four prebends was approved in the year 1858; and therefore, they do not wish to suffer the consequences of that suppression. But the chapter responds that a meeting was called, as is customary, and that it was duly held under the presidency of the Vicar General; and that if the canons of the third establishment were not present, that should be attributed to the fact that at that time, one benefice was vacant, and another was held by the infirm and ailing Canon Forti. However, for the validity of the chapter's actions, it suffices that all be called; it is not necessary that all be present. This is clear from *Quia propter*, concerning elections, where it is expressly stated that an election must be held with the presence of all those who ought to, and who can, conveniently attend. Moreover, having held a regular convocation of all, what is decided and approved by the chapter requires and suffices with the consensus of the majority of the members, as stated in *De his quae fiunt*, title 1, and by the Abbot in number 4, and others generally state: "In ecclesiastical universities, it is regularly held that what is done by the majority prevails, unless the minority reasonably objects." Therefore, what the majority of the chapter does is understood to be done by the entire chapter, for the majority of the chapter represents the entire chapter, as stated in *L*, *prout Quod maior*, concerning municipal matters, with these words: "What the majority of the court effects, is held as if all had acted." Because it could be argued that the minority reasonably objected, or that the matter being discussed in the chapter concerned those things in which the consensus of all and each is required, according to rule 29 of the canons in 6. Furthermore, chapter E, last part, of *De iis quae fiunt*, expressly states that the Bishop, with the majority of the chapter, can decide that each of the canons be required to contribute a portion of their revenues to the repair of the cathedral church,

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notwithstanding.

[*Latin ed. p. 231*]

ALBANES. 231 concerning opposition. The reason for this decision, as the Pontiff states there, is that the repair of the cathedral church, or the parish church, is a pious cause, necessary, and concerns the utility and necessity of the college itself, since the church of which it is a part requires repair. However, if the Bishop, with the majority of the chapter, can prescribe a tax to be paid by each individual for the repair of the buildings, then, all the more so, he can approve and commend certain benefices for the same purpose – namely, their suppression – even if this entails some burden for each individual. Furthermore, this burden, if anything arises from it due to more frequent or longer service resulting from the aforementioned reduction, seems to be greatly compensated by other benefits connected with the suppression, and those granted subsequently to it, as the Chapter and the Bishop assert. RIGHTS OF THE CANONICS OF THE SECOND ERECTION. Conversely, the Reverend Julian observes that, in the convention of 1769, the canonics of the second erection did not accept any arbitrary or indefinite form of service, but rather a completely defined and limited one: for they promised to bear a portion of the burden of celebrating Mass with others in order to attain the honor of elevation; but those with whom they agreed were ten; therefore, they implicitly promised to bear one-twelfth of the service. And although they indicated, by word of mouth, and by saying that they would take turns, and implicitly promised to undertake the burden of turns, and to make up for omissions arising from ordinary and extraordinary causes, along with others, it seems to be understood that this refers to the burden of turns and omissions that may occur within the chapter of ten canonics, and from ordinary and extraordinary causes; and not to a new and perpetual burden to be assumed. Indeed, since they promised to take turns, but with ten, it does not seem that they are obligated to take turns in any way, and with any number, even if the old Mass benefice is almost halved; but only to be subject to the turns.

[*Latin ed. p. 232*]

232 ALBANI. To the chance and vicissitude of service, which arise with the moral body of ten persons, from fortuitous and contingent causes. It must be understood that these canons are not bound by the original institution, but by the force of a pact, or an unnamed contract, to provide, that is, to provide in turn for the performance of the duties; by the force, I say, of this law alone, to be held to the turn of service. Indeed, it may be that those who are bound by the original institution to perform a turn may, in the future, still be required to do so, even though the burden of service has greatly increased, even doubled, due to the suppression of certain benefices; nevertheless, the same cannot be said in the case of canons

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of a new foundation. For, if the old body of canons was originally and principally instituted for the service of the Church, and they divided the service by turns for their own and the Church's benefit; it is therefore not surprising that they are bound to supply the deficiencies of others, even perpetually. For this proceeds from the law of the foundation, by which they must strive that the divine worship should not fail. But if, outside of any necessity, from their own free will, someone promises to bear a certain burden with others, ten in equal parts, and then it happens that these ten are reduced to six, it does not seem to be able to be firmly asserted that he, who thus contracted with ten, is bound by the force of that pact to bear the burden of service with six; but either a new agreement is needed, or, if not, the acceptance and consent of the other party. It may even be said that the canons of a new foundation entered into an agreement not with ten confreres, but with the chapter: and the chapter does not always consist of the same number of brothers. Although it is true that the new canons entered into an agreement with the chapter and not separately with each individual; it is also true that the chapter, with which the agreement was made, consisted of ten priests: and it was also known that this number of canons was to remain stable, and could not be reduced, except for a very important reason, with the calling of all those concerned, without their detriment, according to chapter 33 "De praebend." and other things mentioned below. Therefore, the matter...

[*Latin ed. p. 233*]

ALBANEN. seems to hold that the same result is achieved in both cases: in the agreement made with ten individuals, and in the agreement made with the society in which ten are stably present. In both cases, a certain and definite number of works and labors is promised. However, if we retain at least the words of the agreement, by which the obligation was undertaken, these remain obscure. Indeed, "in obscure cases, the minimum must be followed," according to rule 30 of the Jurisprudence in VI and L. always in obscure cases 9 ff. Of the Jurisprudence. This rule applies not only to laws, but also to contracts and promises, as Reiffenstuel teaches in this rule, number 7. Here, the author presents an example very similar to our case, which deserves careful consideration: "He who promised to give twenty gold pieces annually to each of the ten canons of the church, so that each would have two, is not bound to add more, so that those who have joined later would also receive; Strein here, number 3; Pech, number 3. Because in this obscure case, the promiser is less burdened by giving in this way." Furthermore, in accordance with the principle of referring the congruent to the congruent, our case appears to be clearly defined. It argues that the reduction of benefits, which was approved by a majority vote of the chapter, and which was authorized by the authority of the Holy See, cannot be challenged by anyone, and that both benefits and burdens, if any, must

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be accepted equally by all. However, it can be argued that the chapter meetings in which the reduction was approved only counted four canons, all of the old mass, and that only three of them approved the measure. Nevertheless, it must be admitted that the agreement and that resolution were valid, and that the established rules were entirely valid, both in themselves and in their effects; however, this may be true only for those and for the moral body of those who approved that conclusion, that is, for the canons of the old mass. But the canons of the new mass did not participate in the meetings, nor were they specifically called to them; therefore, they may have believed that the matters being discussed were specific to the old mass.

[*Latin ed. p. 234*]

23. Concerning the Albanians: It is even more so because they deny that they knew about such a serious matter, which also concerned them, being carried out. Furthermore, the matter, concerning others, can neither benefit nor harm me; but according to another rule, "whatever concerns all ought to be approved by all" (Durand, 6, c. 1). Moreover, the canons of the newly erected church, since they would feel the effect of the suppression and the inconveniences of a larger and more burdensome institution, ought to have been called to assemblies, questioned about the matter, and their consent obtained; which, indeed, may perhaps be evident from these considerations. Suppression, in law, is not only odious, and almost like an alienation (cf. cap. 8 at the end, concerning what is done by a Prelate); and therefore, admission is only granted, unless there is a great and evident necessity or benefit for the Church; but in our case, since those concerned must be called, (Pirhing, lib. 3, Decret., tit. on; Reiffenstuel, lib. 3, Decret., tit. 12, n. 76), and consent is required, not only of the chapter, but also of those whose rights might be harmed by the suppression (Reiffenstuel, loc. cit., n. 72, with Clement. 1, § 3, De statu monach.); this consent pertains to justice, according to the Doctors, ibid. Therefore, if such a suppression should nevertheless be necessary, it is certainly to be sought that the rights of others be harmed as little as possible. Indeed, in the matter, a contract of service or of bearing a burden in turn existed between the ten canons of the old mass and the new canons: this agreement necessarily concerned the number, and was contained within it; but by suppressing four prebends from the old mass, the promised state of affairs was harmed, and the service and burden to be borne in turn was almost doubled: therefore, by the prompting of equity and justice, if the chapter still approved of the suppression of the prebends, the other party to the contract ought to be consulted, and either their consent obtained, or they ought to be released from the contract, and not forced to undertake such a grave and unforeseen, and certainly not desired, burden. However, it is of no use to say that the Bishop, with the consent of the majority of the chapter, can demand a sum from each for the

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Church...

[*Latin ed. p. 235*]

ALBANEN. To demonstrate the necessity of the expenditure for the repair; and it is the less objectionable, because certain profits have arisen from the suppression of four canonical benefices for the new mass. Regarding the first point, it can be said that there is a difference between a sum once taxed, and a perpetual burden imposed: the latter is much more weighty to be considered and to be borne. Furthermore, with regard to the second point, it can be added that, although certain advantages have resulted from the aforementioned suppression, it does not follow that the canons of the new foundation should bear this suppression and undergo the heavier burden of *turnus* in Tournus, even if some advantage is said to be derived therefrom. It must always be remembered that the canons of the new foundation did not come from the original institution, but by their own right and by the force of contracts in the law of Tournus. Moreover, if a benefit can certainly not be conferred without consent, *a fortiori*, a burden, even if joined with certain advantages, cannot be imposed. Elsewhere, these advantages are either very small or nonexistent; while, on the other hand, the canons of the Old Mass have obtained advantages from the suppression. With these two points clarified, the question to be resolved is: Whether and in what way are the canons of the new foundation obligated to provide service or to contribute to the *turnus* in this case?

RESOLUTION. The Sacred Congregation of Councils, after deliberation, on June 18, 1887, permitted the following response: Affirmative, according to the articles of the convention approved by the Holy See in the year 1769. From WHICH YOU CAN GATHER:

I. The *turnus* divides the exercise of a right or office among the individual canons of the same order, so that from this division, a certain equality is established among all, and all bear an equal share of service.

II. Concerning this matter, if no limiting clause is added when a *turnus* is established for some service or office, it is necessarily understood that this service or office is to be provided by each, in equal measure and for the same period of time; because general words are to be understood generally.

[*Latin ed. p. 236*]

236. ALBANI. III. However, this division of duties concerning the offices and services of the choir can vary from what was originally established due to the changing circumstances; for it may happen that the number of canons increases through the establishment of new benefices; or that it decreases due to the granting of indulgences, or due to prolonged infirmities preventing their service. V. When the conditions of the chapter vary, the division of duties must also vary, and be adapted to the new circumstances; so that the service of the choir may be increased or decreased for each,

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according to what is added. V. To prevent the service of the choir from being neglected, a new division of turns should be made whenever there are changes in the members, and if one of the canons is absent, the one who follows should take his place. VI. This can also be deduced from the principles of law: for in a division made among many, the share of each is subordinate to the number of those who participate in the act of division. VII. This also applies in some way to the service of the choir, as happens with legates; for if one of the legates is absent, his portion is added to the portion of the others, whatever their connection may be; so, if one of those obligated to perform the service is absent, his portion is added to that of the others. VIII. Since the canons, in accordance with the first and third regulations, have agreed that all should take turns in celebrating Mass, it follows that all are equally obligated to perform this duty, and to make up for the omissions of others, in proportion.

[*Latin ed. p. 237*]

237 DECREE FROM THE SACRED CONGREGATION FOR RITES. From Palermo or Nicosia. Concerning the Beatification and Canonization of the Venerable Servant of God, Brother Felix of Nicosia, a lay brother of the Order of Friars Minor of the Conventual Observance of Saint Francis, Capuchin. ON THE QUESTION: Whether, with the approval of virtues and two miracles, it is possible to proceed safely to the solemn Beatification of the Venerable Servant of God? One hundred years, completed in the month of May, since the Venerable Felix of Nicosia exchanged his mortal life for eternal life. He was one of those who, in the lowest ranks of the brotherhood of Capuchin Friars, lived and walked in simplicity and innocence, and did good to all. Since the fame of his extraordinary sanctity, which he possessed in life, spread more widely among the Sicilians after his blessed death, his cause was begun before the Sacred Congregation for Rites, and with both ordinary and apostolic authority, legal proceedings were instituted, and from the evidence presented and duly examined, His Holiness Pope Pius IX decreed on the ninth day before the Ides of March in the year 1861, that he possessed virtues of a heroic degree. Furthermore, in a decree of the preceding year, 1886, on the eleventh day before the Kalends of December, the Most Holy Lord Pope Leo XIII rightly declared that two miracles had occurred after his death, and had been obtained through his intercession. Therefore, it was now necessary to proceed to grant the Venerable Servant of God the honors due to the blessed in Heaven. Wherefore, in a general meeting of the Sacred Congregation before the same Most Holy Lord Pope Leo XIII, held in the Vatican on the thirteenth day before the Kalends of May of the current year, the Most Reverend Cardinal Raphael Monaco, Bishop of Valletta and Albano Laziale, proposed the following question: "Whether, with the approval of virtues and two miracles, it is possible to proceed safely to the Beatification

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of the Venerable Servant of God?" To which all those present, the Most Reverend Cardinals and Consultors, gave an affirmative answer. His Holiness, considering the importance of the matter, admonished those present, and imparted divine light.

[*Latin ed. p. 238*]

23,8 From the Sacred Congregation for Rites, it was deemed necessary to deliberate before pronouncing the final judgment, at the appropriate time. And so, on this sacred feast of All Saints, after offering the propitiatory Host in the private chapel, in the more noble hall of the Vatican Palace, in the presence of the Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation for Sacred Rites, and Raphael Monaco of Valletta, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, the following was solemnly decreed: – That the process for the Beatification of the Venerable Felix of Nicosia may proceed. This decree was ordered to be promulgated, and recorded in the acts of the Sacred Congregation for Rites, and that Apostolic Letters, in the form of a Brief, for the Beatification, should be issued whenever it is deemed fitting, on the first of November of the year 1887. A. CARD. BIANCHI, Prefect of the Sacred Congregation. II. S. LAURENTIUS SALVATI, Secretary of the Sacred Congregation. DECREE. Concerning the Canonization of the Seven Founders of the Order of the Servants of the Blessed Virgin Mary, in Florence. REGARDING THE DOUBT: Whether, and concerning what miracles, after the veneration of these Blesseds was granted to them, the impiety of the schismatic Frederick II did divert from the Church, and whether, in the case and to the effect of which we are speaking, the people of Italy, more devoted to charity than to factions, envy, hatred, and bloody wars, were divided. Providentially, and besides their outstanding sanctity, seven men of Florentine nobility arose, who, united in charity, so that their hearts and souls were one, exhibited a most excellent example of fraternal love. These were, namely, Bonfilius of Memaldis, Manettus Banaiuncta, Manettus Antellensis, Amideus of Amideis, Ugucio of Ugucioni, Sosteneus of Sosteneis, and Alexius of Falconeriis, who, with a prodigious chorus of children and the infirm, were called the Servants of the Blessed Mary, and who, together in the solitude of the high mountain of Senario, were called by the same heavenly vocation, and who, leading a certain heavenly way of life, founded the Order of the Servants in the thirty-third year of the tenth century.

[*Latin ed. p. 239*]

From the Sacred Rites, number 239, concerning the feast of the Blessed Virgin Mary, instituted by her will; whose spirit and, as it were, a pledge and constant reason for veneration; and to promote the memory of the sorrows which the glorious Queen of Martyrs endured in the passion and

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death of her only-begotten Son. And after her blessed death, these were not separated: for the true love of fraternity and the vivifying Religion united them, so that the spirit might be seen to dwell in seven bodies; one was laid in a tomb beneath the altar of the temple, one followed in faithful devotion, the veneration of the people, one, the invocation of the Blessed Seven Founders. This cult, marked by a Commission for the introduction of their cause for canonization, was confirmed by Apostolic authority and increased in many ways. Subsequently, the virtues of each of the Blessed Ones were approved; and by the decree of Pope Benedict XIV, of the fifth day of February in the year 1744, for the examination of miracles by the Apostolic tribunals, the matter came to be considered. However, these miracles, as all were said to have been obtained through the invocation of the Seven Blessed Founders, were, according to the tenor of the subsequent decree of the aforementioned Supreme Pontiff, of the eighth day of August of the same year, not sufficient for the basis and foundation for canonization; and so the matter remained unresolved. Finally, at this time, as if by divine command, a new and splendid miracle of healing was awakened from long silence, which also testified to the collective invocation of the Seven Blessed Ones. Therefore, when the Most Holy Pope Leo, Pope, decreed on the twenty-sixth day of June in the year 1868, in accordance with the opinion of the particular Congregation of Sacred Rites instituted for this purpose, that, due to special circumstances concurring in the case, and for reasons adduced, the ancient cause should proceed to the discussion of at least four miracles which were said to have been obtained through the collective invocation of the Seven Blessed Ones, the usual congregations concerning these miracles were held: namely, the Preliminary Congregation in Rome, before Cardinal Lucido Maria Parocchi, Relator of the Cause, on the fourth day before the Kalends of October in the year 1886; the Preparatory Congregation, in the Apostolic Palace at the Vatican, before the Roman Cardinals, Prefects of the Sacred Rites, on the Kalends of March of this year 1887; and the General Congregation, also in the Vatican Palace, before the Most Holy Pope, on the day before the Kalends of June of the same year. In which, by the Reverend Cardinal Lucido Maria Parocchi, Relator, the proposed question was: "Concerning which miracles, after the veneration of the Seven Blessed Founders of the Order of the Servants of the Blessed Virgin, is there evidence in the case, and to what effect does it pertain?" The Most Holy Father, and the Roman Cardinals, and the Fathers, consulted.

[*Latin ed. p. 240*]

240 FROM THE SACRED CONGREGATION OF RITES, the votes were carefully considered. "However, in a matter of such importance, before making any decision with his supreme authority, he instructed those present to earnestly and with fervent prayers implore God, that He might grant a light from the heavenly counsel of His mind. On this very day,

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which the Church rejoices in the Lord, celebrating the Feast in honor of All Saints, after offering the holy Sacrifice, seated on the throne in the hall of the Vatican Palace, he summoned to him the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Lucido Maria Parocchi, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and in their presence, he solemnly declared: 'It is established that there are four miracles, granted by God in response to the collective invocation of the Seven Blessed Founders of the Order of Servants of the Blessed Virgin Mary,' namely: 'the first: the instantaneous and perfect healing of the eighty-year-old woman, Joanna Lugli, from an incurable blindness;' the second: 'the instantaneous and perfect healing of Sister Maria Pulcheria, a professed nun in the monastery of the Order of Servants of the Blessed Virgin Mary, located in Arcus, in the Diocese of Trent, who was suffering from a chronic gastro-enteritis, long-lasting sciatica, and other ailments;' the third: 'the instantaneous and perfect healing of Teresia Romagnoli, who was afflicted with a very serious cerebro-spinal meningitis, distinguished by the most violent epileptic convulsions;' and the fourth: 'the instantaneous and perfect healing of Maria Anna Barsottelli, from a malignant and severe puerperal fever.' He ordered that this decree be made public and recorded among the acts of the Sacred Congregation of Rites on the Kalends of November, in the year 1837. D. CARDINAL BARTOLINIUS, Prefect of the Sacred Roman College. H. G.J.S. LAURENTIUS SALVATI, Secretary of the Sacred Roman College. DECREE. Concerning the Canonization of the Seven Blessed Founders of the Order of Servants of the Blessed Virgin Mary, in Florence. CONCERNING A DOUBT: Whether, with the approval of their virtues and four miracles, it is possible to proceed safely to the solemn canonization of these same seven Blesseds? It is a great honor to the Order of Servants of the Blessed Virgin Mary that its seven founders and fathers have had the special, most august, maternal protection and love of the Queen of Heaven.

[*Latin ed. p. 241*]

FROM 5. G. RITUUM 241, concerning [certain matters]. It is related that that glorious martyr of Christ, Peter, an ornament of the Dominican family, illuminated by divine light, was seen by [others] to have beheld, as it were, seven lilies, their whiteness and their sweet fragrance being most pleasing to the Virgin present with him. The liturgical cult of these [saints], whose legitimate possession by the Apostolic See has long been confirmed, and whose individual virtues have been proven to a heroic degree, has recently been augmented by a Pontifical decree issued on the first of this month, from which it is clear that four miracles occurred in connection with the collective invocation of the Seven Blessed Founders, after those miracles

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had been granted to them by God, which miracles were required for their canonization. Therefore, it had already been determined that the highest honors concerning their canonization would be considered in the general Congregation of Sacred Rites. This matter was indeed celebrated in the halls of the Vatican on the 17th of December of the current year, before the Most Holy Lord, our Pope Leo XIII, with the proposal presented by the Most Reverend Cardinal Lucido Maria Parocchi, the Relator of the Cause, with the question: "Given the approval of the virtues and the four miracles, can we safely proceed to the solemn canonization of the Blesseds?" And both the Roman Cardinals present and the Consultor Fathers gave an affirmative answer. The Blessed Father, having received the votes favorably, and considering the sublimity of the matter, decided that it was still necessary to humbly pray to God, so that He might grant the Spirit of Truth to render the final judgment of His mind. On that first Sunday of the Sacred Advent, after having offered the divine Sacrifice, seated on his throne in the noble hall of his Vatican Palace, he summoned the Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and Lucido Maria Parocchi, the Relator of this Cause, as well as the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and, with them present, he decreed: "That it is safe to proceed to the solemn canonization of the Seven Founders of the Order of the Servants of the Blessed Virgin Mary." He ordered that this decree should be made public, recorded in the Acts of the Congregation of Sacred Rites, and that Apostolic Letters should be issued under seal concerning the solemnity of the canonization, on the 5th of December of the year 1887.

A. CARDINALIS BIANCHI, Prefect of S. R. C.

S. LAURENTIUS SALVATI, S. R. C.

Acts, Vol. XX, page C C XXXIII. Secretary.

[*Latin ed. p. 242*]

242 FROM THE SACRED RITUAL DECREE. Concerning the canonization of the Blessed Peter Claver, Confessor, Priest, of the Society of Jesus. CONCERNING A DOUBT: Whether, and concerning which miracles, it is established in this case, and to what effect, that the ineffable wisdom of God, which disposes all things in the world with firmness and gentleness, has never ceased to stir up zealous heralds of the Gospel, who would spread the light of truth among the unbelievers, sitting in darkness and the shadow of death, and who would spend their lives for the glory of the divine name and the salvation of their neighbors. To these belongs the Blessed Peter Claver, a Spaniard, born in Virdun, which is a town in Catalonia, a member of the illustrious Society of Jesus. After being raised to the priesthood, and soon being sent to Carthage, on the coast of the

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Atlantic Sea, to evangelize the barbarian peoples, it is scarcely possible to describe the charity with which he labored, especially among the uncultured people from Africa, treated as vile slaves, for forty years and even longer, regenerating thousands of them with the saving laver of baptism in Christ. The apostolic man, Blessed Alphonsus Rodriguez, with whom he had once conversed, foretold, illuminated by the divine Spirit, the great works, the immense labors, and the future glory in heaven. Indeed, Peter passed away on the day of the Nativity of the Virgin Mary, his most beloved patron, in the year 1654, in the forty-fourth year of his age. When his virtues and miracles were duly proven, the Most Holy Pope Pius IX adorned him with the honors of the blessed in heaven; and he pleased to manifest his servant with new miracles, so that he might be raised to the honor of canonization in the Church. Therefore, two were selected, and presented to the customary juridical investigation of the Congregation of Sacred Rites, namely, in the preparatory meeting held before the Cardinal of clear memory, Dominic Bartolini, Prefect of the same Sacred Rites Congregation and Relator of the Cause, on the 16th of December of the year 1886; then in the preparatory meeting in the buildings of the Vatican on the 6th of May, of the following year, 1887; and finally, in the general meetings held in the same Vatican buildings before the Most Holy Lord Pope Leo XIII on the 13th of August of the same year. In these meetings, the Most Reverend Cardinal Aloisius Serafini, in place of the aforementioned Cardinal Relator who was absent, proposed the doubt: - Whether, and concerning which miracles, it is established in this case, and to what effect? - Then, the Most Reverend Cardinals, and the Consultors,

[*Latin ed. p. 243*]

FROM SACRED RITUALS 243, the undersigned have opened the proceedings. The Most Blessed Father, having attentively considered the matter, has decreed that, after offering the customary humble prayers to God, the final judgment regarding these matters should be pronounced at an opportune time. Finally, on this festive day of the celebration of All Saints, after the Holy Sacrifice had been offered, the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Miecislaus Ledochowski, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, were summoned to the noble hall of the Vatican Palace, and there, in solemn session, it was declared: "That two miracles, wrought by God through the intercession of the Blessed Peter Claver, have been established; namely, the first: the instantaneous and perfect healing of Barbara Dressen, an eighty-year-old woman, from a long-standing epithelial cancer in the right jaw; and the second: the sudden and perfect healing of Ignatius Streker, who suffered from a severe lung ailment connected with a caries of the sternum and the left ribs." It was ordered that this decree be published

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and inserted into the records of the Sacred Congregation of Rites on the first of November, 1887.

A. CARD. BIANCHI, Prefect of the Sacred Congregation of Rites.

L. S. LAURENTIUS SALVATI, Secretary of the Sacred Congregation of Rites.

DECREE.

Regarding the Canonization of the Blessed Peter Claver, Confessor, Priest, of the Society of Jesus, in India, or Carthage.

ON THE QUESTION: Whether, with the Apostolic approval of the aforementioned two miracles, after his veneration, it is permissible to proceed safely to the Canonization?

The charity of Christ, which impelled Paul, the chosen vessel, to spread the light of the Gospel among the nations dwelling in darkness, error, and wickedness, made Peter Claver a zealous apostle among the miserable slaves of the Nigritians, leading flocks of sheep from Africa to the port of Carthage, to liberate them into the glory of spiritual freedom, as sons of God. Charity was pre-eminent among his many virtues, which, through his long work and labors for the salvation of souls and the relief of suffering bodies, happily gained him a wide course.

[*Latin ed. p. 244*]

244 FROM the Sacred Rites, he was raised to heaven, and also rendered glorious and venerable on earth. Hence, even after his precious death, he shone forth with brilliant signs and miracles, by which the Almighty God willed to bear witness to his sanctity and glory; and by the Most Holy Pope Pius IX, in the fifty-first year of this century, on the twenty-first day of September, he was duly adorned with the honors of the Blessed in heaven. Increased then by the veneration and trust of the faithful, and with new miracles occurring in favor of his invocation, two of these, after a rigorous examination by the Sacred Congregation, were approved, by a Pontifical decree recently issued, on the Kalends of the following month and year. Therefore, what remained was to consider the matter of enrolling the Blessed Man in the Canon of Saints; in the General Assemblies of the same Sacred Congregation, held on the seventeenth day before the Kalends of December next, in the Vatican Palace, before the Most Holy Lord Pope Leo XIII, the Most Reverend Cardinal Miecislaus Ledochowski proposed the following question: "Whether, with the approval of two miracles granted after the veneration of Blessed Peter Claver, granted by the Apostolic See, it is safe to proceed to his solemn canonization?" And each of the Most Reverend Cardinals and Consultors gave their favorable vote. His Holiness reserved his supreme judgment, meanwhile seeking a more abundant light from the Divine Spirit in this very important matter. Furthermore, on the first Sunday of the Sacred Advent, after the celebration of the Divine Sac-

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rifice, having summoned to the Hall of the same Vatican Palace the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Miecislaus Ledochowski, Relator of this Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and with these present, he decreed: "That it is safe to proceed to the solemn canonization of Blessed Peter Claver." He ordered that this decree be made public, be recorded in the acts of the Sacred Congregation of Rites, and that Apostolic Letters regarding the canonization, to be celebrated at any time, be issued, on the fifth day before the Kalends of December of the year 1887. A. L. CARDINAL BIANCHI, Prefect of the Sacred Congregation of Rites. C. LAURENTIUS SALVATI, Secretary of the Sacred Congregation of Rites.

[*Latin ed. p. 245*]

FROM THE SACRED RITUALS, DECREE 254. In Reims, concerning the Beatification and Canonization of the Venerable Servant of God, John Baptist de la Salle, founder of the Congregation of the Brothers of the Christian Schools. CONCERNING A DOUBT: Whether, and concerning which miracles, it is established in the case of the Venerable Priest, John Baptist de la Salle, who, having rejected honors, riches, and all worldly cares, dedicated his life to the education of the people, so that they might, together with letters, acquire and attain wisdom, the beginning of which is the fear of the Lord. This class of children, frequent in all places and almost abandoned, he began to cultivate with paternal charity, industry, and labor, and in every way possible, so that they might grow into an ornament of the Christian name and of the fatherland, and so that none of them might be corrupted by the winds of the new Jansenist doctrines, or by a bad example, or by the pestilent breath of Satan. Full of works for the glory of God and the salvation of the young, he died on the seventh of April in the year 1719, leaving behind in the principal city of Gaul and in its provinces, and also spread in Rome, the association of the Brothers of the Christian Schools, which, like a plant that the Heavenly Father planted, has flourished widely among the hatreds of the wicked and the favor of the good, and bears salutary fruits day by day throughout the world. The virtues, both theological and cardinal, of so great a man, having reached their peak, it was decreed by His Holiness Pope Pius IX, on the first of November in the year 1873, after consultation with the Congregation of Sacred Rites. Subsequently, concerning the miracles by which God was said to have confirmed the sanctity of His Servant after his death, a most rigorous judgment was instituted in the customary Congregation of Sacred Rites, through a threefold discussion: namely, in the preparatory meeting in Rome with Cardinal John Baptist Pitra, Bishop of Porto and St. Rufina, on the first of September in the year 1885; then in the preparatory meeting at the Vatican Basilica on the sixth of September of the following year; and

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finally, in the general assembly before His Holiness Pope Leo XIII, in the same Apostolic Palace at the Vatican, with the assembly of III Kalends of May of the present year 1887. In which, through the aforementioned Cardinal, Relator, the proposed doubt was: "Whether, and concerning which miracles, it is established in the case, and for the purpose of which it is spoken?"

[*Latin ed. p. 246*]

245 FROM THE SACRED CONGREGATION OF RITES: The Most Holy Lord, having heard the opinions of the Roman Cardinals and Consultors, before deciding on so grave a matter, declared that it was necessary to earnestly seek the light of counsel through fervent prayer to God. He chose this day, dedicated to All Saints, to announce the happy outcome of the affair, which benefits the Catholic name throughout the world, and especially fulfills the long-standing and pious wishes of the most noble Christian people of Galliae. Hence, the Divine Host was brought to the noble hall of the Vatican Basilica. The Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and Giovanni Battista Pitra, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, were present, and it was duly decreed: "That it is established that three miracles, wrought by the grace of God through the intercession of the Venerable John Baptist De La Salle, have occurred; namely, the first: the instantaneous and perfect healing of Brother Adelminiani of the Congregation of the Christian Schools, from progressive ataxia; the second: the instantaneous and perfect healing of the ten-year-old Stephen De Suzanne from a lethal capillary bronchitis; and the third: the instantaneous and perfect healing of Mary Magdalene Victoria Ferry from chronic, incurable hydropericarditis, complicated by other very serious illnesses." This decree was ordered to be published and recorded in the acts of the Congregation of Sacred Rites on the first of November, in the year 1887. A. C. W. BIANCHI, Prefect of the Sacred Rites. L. S. S. LAURENTIUS SALVATI, Secretary of the Sacred Rites. DECREE. In the city of Reims. Concerning the Beatification and Canonization of the Venerable Servant of God, John Baptist de la Salle, Founder of the Congregation of the Brothers of the Christian Schools. ON THE QUESTION: Whether, with the approval of his virtues and of three miracles, it is possible to proceed safely to the solemn Beatification of the same Venerable Servant of God? By the wonderful disposition of Divine Providence, the Cause of Beatification of the Venerable Founder of the Christian Schools has reached this stage.

[*Latin ed. p. 247*]

From the *Collectio Rituum* 247, a desired outcome is hastened, namely, that religious education, widely neglected among Christian youth, is often

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prohibited even by civil laws. For this purpose, the Venerable John Baptist gave up everything, so that he might bring about the fruit of this salutary work for society, lest the innocent minds of children, entrusted to impious and wicked teachers, be drawn to vices by examples, or lest the very seeds of truth and honesty, naturally bestowed upon them, be almost lost. For this purpose, he fought valiantly against the most cunning adversaries until his death, leaving behind chosen companions, who are heirs to his spirit. Therefore, the example and the powerful work of such a man are today more opportune than anything else for the Catholic Church to avert the harm inflicted upon its burgeoning youth by a deadly education. When, therefore, the Most Holy Pope Pius IX, on the first of November in the year 1873, had decreed concerning the heroic virtues of the Venerable Servant of God, so that proceedings could be initiated towards the examination of four miracles; subsequently, by the Most Holy Lord Pope Leo XIII, due to special circumstances of this Cause, a dispensation was granted, prior to the proposition and approval of the fourth miracle, and on the solemnity of All Saints of the current year, it was declared that "three miracles are established, through the intercession of the Venerable John Baptist de La Salle, granted by God." It remained only to decide upon the granting of the highest honors; which was indeed done in the general Congregation of Sacred Rites recently held in the Vatican buildings, before the same Most Holy Lord, on the seventeenth day before the Kalends of December; in which, through the Most Reverend Cardinal John Baptist Pitra, Bishop of Porto and S. Rufinae, the Relator of this Cause, the following question was proposed: "Whether, with the approval of the virtues and of three miracles, it is safe to proceed to the solemn Beatification of the Venerable John Baptist de La Salle?" All the Cardinals present, as well as the Consultor Fathers, gave their affirmative opinion. The Most Holy Father, however, considering it prudent to defer his final judgment, in order to seek the counsel of the Divine Spirit in the meantime, summoned to himself on the first Sunday of the Sacred Advent, in the same Vatican Palace, the Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and John Baptist Pitra, Relator of the Cause, together with the Most Reverend Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, and with these present, he decreed: "That it is safe to proceed to the solemn Beatification of the Venerable Servant of God, John Baptist de La Salle."

[*Latin ed. p. 248*]

248 By the present decree, it was commanded that this decree be made public and recorded in the acts of the Congregation of Sacred Rites, and that Apostolic Letters be issued, in the form of a Brief, concerning the solemnities for the beatification, whenever they are to be celebrated, on the fifth day before the Kalends of December, in the year 1887.

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A. CARDINALIS BIANCHI, S. B. C., Prefect.

L. S. LAURENTIUS SALVATI, S. R. C., Secretary.

DECREE!

CONCERNING THE CANONIZATION OF THE BLESSED ALPHONSUS RODRÍGUEZ, CONFESSOR, TEMPORAL COADJUTOR OF THE SOCIETY OF JESUS.

REGARDING THE DOUBT: Whether, and concerning which miracles, there is sufficient evidence in the case, and for the purpose of which they are being considered.

After our Holy Father, Pope Leo XIII, had inscribed Alphonsus Rodríguez in the roll of the Blessed, God willed to manifest the virtue of this outstanding member of the Society of Jesus through new signs of miracles, so that he might be publicly honored with the honors of the Saints in the Church Militant.

Hence, two of these miracles were selected and submitted for the approval of the Apostolic See.

By the divine providence, it happened that the examination of these matters did not occur until these later times, while the cause for the Beatification of Peter Claver was being considered, whose heroic labors in evangelizing the infidels, and whose great merits before God, shining brightly in the heavenly kingdom, had been foretold by the Blessed Alphonsus himself.

Therefore, in accordance with the established rules of the Canonical Constitutions, these matters were discussed three times in the Congregation of Sacred Rites: first, in the preparatory assembly convened on the sixth day before the Ides of February, in the year 1887, in the house of Cardinal Charles Lawrence, the Relator of this cause; second, in the preparatory meetings held in the same year on the fourth day before the Ides of July, in the Apostolic Palace in Vatican; third, finally, in the general assembly held in the aforementioned year on the eighth day before the Ides of September, before our Most Holy Father, Pope Leo XIII, in the same Vatican papal buildings: where the Most Reverend Cardinal Isidore Verga, in place and instead of the aforementioned Cardinal Relator, who was absent in Rome, proposed the doubt: Whether, and concerning which miracles...

[*Latin ed. p. 249*]

From the Sacred Rituals, number 249, it is established in the case, and for the effect of which we are speaking; "that each and every one present, whether Cardinals or Consultor Fathers, expressed their vote in order." However, the Most Holy Pope delayed in issuing his definitive judgment, reminding those present that, in such a grave matter, it is necessary to pray and to seek the will of God beforehand. On this very day, the Feast of All Saints, after the Holy Sacrifice of the Mass had been celebrated, His Holiness summoned the Most Reverend Cardinals Angelo Bianchi, Prefect

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of the Congregation for Sacred Rites, and Carlo Laurenzi, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Sacred Faith, and myself, the undersigned Secretary, and, in their presence, pronounced the following: "It is established that two miracles have occurred, attributed to the intercession of the Blessed Alphonsus Rodriguez;" namely, the first: "the instantaneous and complete healing of Joachima Rocha y Rayo, who suffered from a severe illness, followed by gastritis and widespread peritonitis;" and the second: "the sudden and complete healing of Sister Mary Alphonsa Grallis, a professed nun in the monastery of Saint Coleta in Antwerp, from a hereditary and chronic cancer of the stomach." This decree was ordered to be published, and to be recorded in the acts of the Congregation for Sacred Rites, on the first of November of the year 1887. A. CARD. BIANCHI, Prefect of the Sacred Rites. L. * S. LAURENTIUS SALVATI, Secretary of the Sacred Rites. DECREE. OF THE CANONIZATION OF THE BLESSED ALPHONSUS RODRIGUEZ, CONFESSOR AND TEMPORARY COADIUTOR OF THE SOCIETY OF JESUS, IN MAJORCA. CONCERNING THE DOUBT: Whether, with the approval of two miracles following the granting of the same Blessed one the right to be venerated by the Apostolic See, it is safe to proceed to his solemn canonization? Concerning the Blessed Alphonsus Rodriguez, a humble member of the Society of Jesus, living among the laity, it can truly be said: "He made him like unto the sons of God." For he has already been elevated by the Supreme Pontiff Leo XII, may he rest in peace, to the cult of the blessed, and today he approaches the highest honors in the Church, just as the Blessed Peter Claver did, whom he once instructed in the ways of holiness when he was still a young man, and to the apostolate.

[*Latin ed. p. 250*]

S150 Having prepared the matter with such divine illumination, [the Sacred Congregation] also considered the case of the blessed John Berchmans, his contemporary, to whom, in purity of morals and filial affection for the most holy Virgin, conceived without original sin, he was most similar. After the veneration of the blessed Alphonse Rodriguez was granted, and after miracles were published, two of which were recently duly proven by the most recent Apostolic decree on the solemnity of All Saints, in the subsequent general meeting of the Sacred Congregation of Rites, held on the 17th of December of the current year in the Vatican, the Most Reverend Cardinal Charles Laurenzi, Relator of this cause, proposed the following question: "Given the approval of two miracles, can the solemn canonization of the blessed Alphonse Rodriguez proceed safely, after the veneration granted to him?" The Most Blessed Father, having received the unanimous support of the Most Reverend Cardinals and Consultors for canonization, postponed giving a final judgment, seeking the grace of divine counsel for this purpose. Finally, so that this illustrious undertaking might reach its

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end on the first Sunday of the Sacred Advent, after offering the salutary Host, he sat on the more noble throne in the same pontifical halls, and summoned the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Charles Laurenzi, Relator, along with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary; and in their presence, he decreed: "That the solemn canonization of the blessed Alphonse Rodriguez can proceed safely." He ordered that this decree be made public, that it be recorded in the acts of the Sacred Congregation of Rites, and that Apostolic Letters for the canonization, to be celebrated whenever desired, be issued, on the 5th of December of the year 1887.

CARDINAL BIANCHI, Prefect of the Sacred Congregation of Rites.

L. © S. LAURENTIUS SALVATI, Secretary of the Sacred Congregation of Rites.

DECREE.

OF ROME, OR MECHLIN.

CONCERNING THE CANONIZATION OF THE BLESSED JOHN BERCHMANS, CONFESSOR AND SCHOLAR, OF THE SOCIETY OF JESUS.

REGARDING THE QUESTION: "What miracles, and on what basis, are established in this case, and to what effect does this pertain?"

The soul of John Berchmans was pleasing to God, adorned with wondrous gifts of nature and grace; therefore, he was quickly led to rest.

[*Latin ed. p. 251*]

FROM SACRED RITUALS 251, concerning eternal blessedness, to which he was already maturing, having, after a brief but complete course of innocent life, merited the fullness of evangelical perfection. This was completed on August 13th of the year 1627, in the same Roman College, which had been ennobled by similar examples of angelic Aloysius. That hero, shining with heroic virtues and miracles, was honored with the heavenly honors of the blessed by His Holiness Pope Pius IX on June 5th of the year 1765. When the blessed youth, especially in the regions of Belgii, began to shine forth with new signs, an investigation into these matters was initiated through procedural records, after which the same Most Holy Pope assigned a commission for the examination of the cause. Hence, in order to pave the way for canonization through the newly reported miracles, a discussion was held in the Congregation of Sacred Rites regarding two matters, first with the Most Reverend Cardinal Dominic Bartolini, of blessed memory, Prefect of the same Sacred Congregation and Relator of the Cause, on January 3rd of the year 1886; then repeated in the Apostolic Palace at the Vatican on July 11th of the same year, also in the Vatican Palace at the General Congrega-

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tions before His Holiness Pope Leo XIII; in which the aforementioned Most Reverend Relator raised the question: "Whether, and concerning which miracles, it is established in this case, and to what effect?" The Roman Cardinals and Consultors then gave their votes. After hearing each one carefully, the Most Blessed Father, considering it prudent to defer his supreme judgment, according to the custom of the Supreme Pontiffs, so that meanwhile humble prayers might be offered to God concerning this matter, who not only generates virtues in his servants, but also, with singular providence, arranges their honors within his Church. On that solemnity of All Saints, after the Sacred Mass had been piously celebrated, the Roman Cardinal Angelo Bianchi, Prefect of the Congregation of Sacred Rites and Relator of the Cause, was summoned to the more noble hall of the Vatican, along with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and in their presence, he solemnly pronounced: "It is established that two miracles occurred, brought about by God through the intercession of the Blessed John Berchmans," namely, the first: "the instantaneous and perfect healing of Maria Wilson, a novice in the order of virgins of the Sacred Heart of Jesus in the town of Grand Coteau, in the Archdiocese of Neo-Aurelianensis, from a chronic and lethal ulcer of the stomach, accompanied by acute inflammation; to whom the blessed John appeared, and immediately restored perfect health," and the second: "the instantaneous and perfect healing of Maria Dionysia Lyon."

[*Latin ed. p. 252*]

252 FROM the Sacred Congregation for Rites, concerning the monastic profession in the monastery of the Clarisses in Brussels, [regarding] a nun afflicted by a chronic gastritis, a stomach ulcer, and a very serious spinal injury. The present decree was ordered to be recorded in the acts of the same Sacred Congregation, and to be published, on the first of November, in the year 1887.

A. CARD. BIANCHI, Prefect of the Sacred Congregation, S. R. C.

L. # S. SALVATI LAURENTIUS, Secretary.

DECREE.

OF ROME, OR MECHLIN.

CONCERNING THE CANONIZATION OF THE BLESSED JOHN BERCHMANS, CONFESSOR, OF THE SOCIETY OF JESUS.

UPON A QUESTION: Whether, with the approval of two miracles following the granting of indulgences in honor of the Blessed, the process for his canonization can safely proceed.

In these times of widespread corruption among the young, it is particularly pleasing to good men that the Blessed John Berchmans, a light and ornament of the Society of Jesus, is to be proposed for the cult of the saints

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who reign in heaven with Christ. Having imitated the examples of Stanislaus and Aloysius, he likewise attained the summit of virtue, and therefore, also redeemed by divine wonders, he was adorned with the honors of the blessed in heaven by the Most Holy Pope Pius IX, in the sixtieth year of this century, on the twenty-eighth day of May.

Furthermore, two new miracles have shone forth, which, being more evident than the others, were presented for examination to the Sacred Congregation for Rites, and were finally confirmed by the authority of the Apostolic See by a decree on the first day of the aforementioned month and year.

With these things thus standing, the matter was presented to the general Congregation of Sacred Rites, which was convened on the seventeenth day before the Kalends of December of the current year, in the Vatican, before the Most Holy Lord Pope Leo XIII. The Most Reverend Cardinal Angelo Bianchi, Prefect of the same Sacred Congregation and Relator of this cause, proposed the question: "Whether, with the approval of two miracles following the granting of indulgences by the Apostolic See in honor of the Blessed John Berchmans, the process for his solemn canonization can safely proceed?" And all the Most Reverend Cardinals and Consultors agreed with a positive opinion.

[*Latin ed. p. 253*]

FROM THE SACRED CONGREGATION FOR RITUAL, 253: The Most Holy Father, after having implored special divine light from God for this purpose, chose this first Sunday of Advent to pronounce the most serious judgment. Having assembled in the noble hall of the Vatican, the aforementioned Most Reverend Cardinal Angelo Bianchi, Prefect and Relator of the Sacred Congregation, together with the Reverend Father Augustine Caprara, Promoter of the Holy Office, and myself, the undersigned Secretary, with those present, He decreed: That it is permissible to proceed to the solemn canonization of Blessed John Berchmans. This decree is to be made public, and recorded in the acts of the Sacred Congregation for Rituals, and letters Apostolic, sealed with the leaden seal, concerning the canonization, are to be issued whenever they are to be celebrated, on the fifth day before the Kalends of December, in the year 1837. A. XI. CARDINAL BIANCHI, Prefect of the Sacred Roman College. S. LAURENTIUS SALVATI, Secretary of the Sacred Roman College. FROM THE SACRED CONGREGATION FOR INDULGENCES: DECREE concerning the extension of the Declaration issued on August 19, 1714, for the Confraternity of the Most Holy Rosary, to the Confraternities of the Most Holy Trinity, of the Blessed Virgin Mary of Mount Carmel, and of the Seven Sorrows. Certain pious sodalities, while they repeat the existence of those of regular orders, so that their erection pertains by a certain right to the same orders. Among these are to be included the sodalities of the Most Holy Trinity, of the Blessed Virgin Mary of Mount Carmel, and also of the Seven Sor-

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rows, which are instituted by the respective regular orders and, therefore, are erected by them according to ordinary law. However, experience has shown that the aforementioned sodalities, often erected by the authority of bishops alone, without the knowledge of the highest superiors of the orders to which these sodalities belong, because, as a rule, with them is granted, by virtue of Apostolic letters, the faculty of erecting sodalities of any title and invocation, together with the respective indulgences.

[*Latin ed. p. 254*]

254 Furthermore, certain Sodalitates are established by the Sacred Congregation for Indulgences, solely through the general granting of Indulgences, which are proper to the Archisodalitates existing in the City, without any explicit derogation being made in the Apostolic documents concerning the privileges granted to the aforementioned Orders with regard to the establishment of their own sodalitates. However, when the Sacred Congregation, which is responsible for Indulgences and Sacred Relics, declared, through a Decree approved on August 19, 1747, and confirmed on August 26 of the same year by Pope Benedict XIV, that the sodalitates established by the Most Holy Rosary did not exist, and therefore lacked the Indulgences proper to that sodality, the Priors General of the Orders of the Most Holy Trinity, Carmelites, and Servites of the Blessed Virgin, having observed similar abuses and confusions concerning the establishment of their own sodalitates, which were already occurring in the establishment of the sodalitates of the Most Holy Rosary, humbly presented prayers to the Most Holy Father, that the aforementioned declaration, which had been published repeatedly concerning the sodalitates of the Most Holy Trinity, of the Blessed Virgin Mary of Mount Carmel, and of the Seven Sorrows, might be observed in such a way that, should the aforementioned sodalitates be established by the highest authorities of those Orders without having previously obtained the necessary permissions, under any pretext whatsoever, and without any explicit derogation of the privilege granted to those Orders in this matter, the establishment of those sodalitates would be of no validity, and would therefore not at all benefit from Indulgences. These prayers, presented to the Most Holy Father Leo XIII by the undersigned Secretary in an audience held on July 16 of the present year, were most graciously received by the Most Holy Father, who, with prior approval of all the aforementioned sodalitates that had been established up to that point by the unaware Priors General of the aforementioned Orders, declared them to be valid, and decreed that, in order to remove all doubt and to prevent abuses, the aforementioned confraternities, or sodalitates, should not be established in any other way than by previously obtaining and securing the necessary permissions from the superiors of the aforementioned Orders, who are in authority at the time, for their establishment; however, that the aforementioned Priors General should send customary

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letters to the priests of their Orders (or, where their convents do not exist, to other ecclesiastical persons, regular or secular, even to Bishops who are well-disposed), concerning the establishment of these confraternities or sodalitates, and that these letters should only be issued with the consent of the Ordinaries, and...

[*Latin ed. p. 255*]

FROM the Holy Indulgences, number 255, and the remaining regulations concerning all such establishments, in accordance with the Apostolic Constitutions which must be observed and followed, execution is commanded. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on the 16th of July, 1887. Father THOMAS M. Cardinal ZIGLIARA, Prefect. ALEXANDER, Bishop of Oenus, Secretary.

DECREE whereby an indulgence of two hundred days is granted, to be gained once a day, to those who recite the following prayer:

Most Blessed Father, Most Blessed Peter, the Priest, Angelus Zineroni humbly presents himself to Your Holiness, stating that in the town called Madone, in the Diocese of Bergamo, there is a public oratory dedicated to the glorious thaumaturge, Saint Vincent Ferrer. Desirous of fostering devotion to the aforementioned Saint, he implores Your Holiness to deign graciously to grant some indulgence to all the faithful who devoutly recite the following prayer in praise of the glorious thaumaturge.

The Priest, Angelus Zineroni, having prostrated himself before Your Holiness, states that he possesses a public oratory, dedicated to the glorious Thaumaturge Vincent Ferrer, in the town of Madone, in the Diocese of Bergamo. Wishing that piety towards the aforementioned Saint may be increased, he requests that Your Holiness may deign to grant some indulgence to all the faithful who recite the following prayer in praise of the glorious Thaumaturge.

PRAYER:

O glorious apostle and thaumaturge, Saint Vincent Ferrer, new angel of the Apocalypse and our beloved protector, receive our humble prayer and let the abundance of divine graces descend upon us.

O angel of the Apocalypse, our beloved protector, receive our humble prayers, and let the abundance of divine graces descend upon us.

[*Latin ed. p. 256*]

256 FROM THE SACRED CONGREGATION concerning indulgences. Through that love with which your heart burned, obtain for us from the Father of mercies the forgiveness of all our sins, firmness in faith, perseverance in good works; thus, living as good and fervent Christians, we shall become worthy of your powerful patronage. Extend this patronage also to our bodies, and deliver us from infirmities. Protect our fields from the

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damage of storms and hail, and keep misfortune far from us. Thus favored by you in spiritual and bodily matters, we shall always be devoted to you; and one day we shall come to heaven to praise God with you for all ages. So be it.

TO THE FAITHFUL: For that charity, by which your heart burned, obtain for us from the Father of mercies, the forgiveness of all our sins, fortitude in faith, perseverance in good works, so that, leading a Christian and fervent life, we may become worthy of your powerful patronage. Extend this patronage also to our bodies, and protect us from infirmities. Protect our fields from the damage of storms and hail, and keep all misfortune far from us. Thus, favored by your help in matters of the soul and body, we shall always act according to your will, and finally, having attained heaven, we shall praise God with you for all ages. Amen.

His Most Holy Lordship, Pope Leo XIII, in an audience held on September 17, 1887, before the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, benignly granted, to all the faithful of both sexes, who, with at least contrite heart, devoutly recite the aforementioned prayer, an Indulgence of two hundred days, applicable also to the deceased, to be gained once a day. This grant is valid forever, without any dispensation. Notwithstanding anything to the contrary. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on September 17, 1887.

Fr. THOMAS M. CARD. ZIGLIARA, Prefect.

Alexander, Bishop of Oenus, Secretary.

[*Latin ed. p. 257*]

257 Letters of the Most Holy Pope Leo XIII to the Archbishops and Bishops of Bavaria. Venerable Brothers, greetings and the Apostolic Blessing. Moved by the most holy office of our Apostolic ministry, and as you well know, we have for a long time striven to ensure that the affairs of the Catholic Church among the Prussians might one day improve, and that, restored to their rightful standing, they might flourish with greater honor. These endeavors, through the grace of God and with our efforts, have progressed to the point that we have alleviated past grievances, and we are filled with hope that the Catholic name may fully and peacefully enjoy its freedom there. Now, however, our thoughts and our zeal are directed in a particular way towards the Bavarians. For we believe that the sacred cause stands in the same position in Bavaria as it did in Prussia; but we desire and hope that in that kingdom also, which boasts of its Catholic faith from its ancestors, all those inconveniences that detract from the freedom of the Catholic Church may be appropriately remedied. To achieve this most salutary purpose, we wish to explore all avenues that remain, and to contribute, without hesitation, whatever assistance is within our authority. And we now call upon you, Venerable Brothers, and

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through you, all our beloved sons in Bavaria, that whatever matters seem to pertain to the care and preservation of the faith and religion among your people, you may communicate them to us, that we may offer counsel on these matters, and that you may confidently urge them upon the civil authorities. We recall, in the sacred annals of the Bavarians, events not unknown to us, in which much is to be found for the joy of both the Church and the state. For the Christian faith, from which its divine seeds, through the supreme care and study of the holy Abbot Severinus, who was the apostle of Noricum, and of other heralds of the Gospel, were sown in the bosom of your region, has taken root so deeply that it has never been completely extinguished, neither by the cruelty of superstition, nor by the disturbances and changes of public affairs. Therefore, at the end of the seventh century, it happened that, when Rupert, the holy Bishop of Worms, at the invitation of Theodone, the Duke of Bavaria, introduced the Christian faith.

[*Latin ed. p. 258*]

258 Through these very means, having undertaken to revive, expand, and strengthen those regions, he certainly found many, both cultivators of the faith and those eager to embrace it, amidst widespread superstition. The most excellent prince, Theodon, spurred on by the ardor of faith, undertook a journey to Rome, and, being eager to visit the tombs of the Holy Apostles, as well as the Vicar of Jesus Christ in augustum, he first demonstrated a most noble example of piety and the connection of Bavaria with this Apostolic See, which was subsequently emulated by other outstanding princes. At the same time, Cardinal Alar t i ne anus, the Bishop of Sabina, was sent to Bavaria by the Holy Pope Gregory II, to provide assistance and promote the Catholic cause, accompanied by George and Dorotheas, both Cardinals of the Roman Church. Not long after, Corbinian, the Bishop of Frisinga, journeyed to Rome to the Supreme Pontiff, a man distinguished by the sanctity of his life and his disregard for worldly things, who confirmed and strengthened the apostolic labors of Rupertus with equal diligence and effort. But to whom should praise be given above all others for having nourished and cultivated the faith in Bavaria? It is easily seen that it is Saint Boniface, the Archbishop of Moguntia; he, who as the father of Christian Germany, as an apostle and martyr, is celebrated with immortal and most true testimony. He undertook missions sent by the Roman Pontiffs, Gregory II and III, and Zacharias, whose grace always flourished abundantly; and in their name and with their authority, he divided the regions of Bavaria into dioceses, and thus, with established hierarchical orders, he commended the faith to perpetuity. As the "Ager dominicus" (written to Saint Boniface by Saint Gregory II) states, which lay fallow and was overgrown with thorns and thistles due to infidelity, it received the seed of the word through the plow of your doctrine, and produced

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a fertile harvest of faith. (1) From that time onward, the religion of the Bavarians, although severely tested by the passage of time, remained steadfast and constant amidst all the vicissitudes of civil affairs. Indeed, those disturbances and contentions regarding imperial power against the priesthood followed, harsh, prolonged, and calamitous; yet, in them, there was more cause for the Church to rejoice in Bavaria than to grieve. Moreover, they stood firm with the full consent of Gregory XI, the legitimate Pope, without the audacity of the dissenters ever diminishing, nor their threats ever succeeding; and, which was most remarkable, for a long period, they remained unyielding, not deterred by the stubbornness of the Novatians, and they religiously preserved the integrity of the faith and the ancient connection with the Roman Church. This virtue and firmness of your forefathers deserves to be praised all the more. (i) Ep. XIII, ad Bonifacium.—Cfr. Labbeum Collect. Conc. v. VIII.

[*Latin ed. p. 259*]

239. It is known that almost all the neighboring peoples have been sadly subjugated by the new sect. Indeed, the Bavarians, who were in that lamentable time, were appropriately and fittingly addressed by Gregory II, who had previously spoken to the people of Thuringia, who had been imbued with Christian wisdom by St. Boniface, and who, for the sake of deserved commendation, were mentioned in a letter to the notables: "Recognizing the constancy of your magnificent faith in Christ, which, while you are compelled by pagans to worship idols, you answer with full faith, preferring to die happily rather than to violate in any way the faith once received in Christ; filled with excessive joy, we give thanks to our God and Redeemer, the giver of all good things, and, with His grace accompanying you, we hope that you will progress to better and greater things, and that you will adhere to the holy Apostolic See with religious minds, and, as the sacred religion requires, seek solace from the aforementioned holy Apostolic See, as is fitting for sons and co-heirs of the kingdom from the royal parent" (1). Although, by the merciful grace of God, which protected your people in the aforementioned manner and embraced them most kindly, We are commanded to hope for the best in the future; nevertheless, we must strive to accomplish all things, insofar as it is within our power, which have greater efficacy in defending the religion, either by healing the wounded or by preventing imminent dangers; so that the Christian doctrine and the most holy customs may be able to spread more widely and abound with the happiest of fruits. We say this not as if we desire that Catholics be more suitable defenders than others, and less timid; for we know you well, Venerable Brothers, and that a greater and healthier part, both of the sacred order and of laymen, are not at all lukewarm in the struggles and dangers that surround your Church. Therefore, just as our predecessor, Pius IX, in most loving letters addressed

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to the Bishops of Bavaria (2), extolled their outstanding efforts in defending the sacred interests of the Church, so too we gladly and openly bestow just praise upon all those from Bavaria who have courageously undertaken the defense of the ancestral religion. But, at times when the Provident God allows His Church to be agitated by fierce storms, He rightly demands that we prepare our minds and forces more keenly to help. And you, Venerable Brothers, are equally (1) Ep. v. Ad optimates Thuring. - Cf. Labbeum, ib. (a) Litt. Nihil Nobis gratius, February 20, 1851.

[*Latin ed. p. 260*]

260 My sons, as you well know, the Church is experiencing times that are both grievous and unjust; you see with your own eyes the difficulties in which your affairs find themselves, and the hardships with which you yourselves are afflicted. Therefore, you understand through experience that your responsibilities are now greater than ever before, and that you must devote yourselves with greater diligence and action, with strength and Christian prudence, to fulfilling them. And above all, we urge you to prepare and adorn the clergy. For the clergy is like an army, and because the performance of its duties and the fulfillment of its functions, under the guidance of bishops, involve constant interaction with the Christian people, it contributes so much more to the well-being of the republic, both in number and in discipline. Therefore, it has always been the oldest and most important concern of the Church to select and train young men for the priesthood, from among whom there is hope that they will perpetually serve in ecclesiastical ministries (1); and also, *so that the youth, from their tender years, may be instructed in piety and religion, before the habits of vice completely possess them* (2); and for this purpose, the Church has established its own seminaries and has prescribed rules, especially in the sacred Council of Trent (B), full of wisdom, so that this college may be a perpetual seminary of God's ministers (4). In some places, indeed, certain laws have been enacted, which, if they do not hinder, prevent the clergy from being formed and disciplined according to their own nature. In this matter, which is of such great importance, and which can be of the greatest benefit, as in other matters, we believe it is necessary to express our opinion openly, and to use every means possible to preserve the sacred and inviolable law of the Church. For the Church, being a society of a perfect nature, has the natural right to train and instruct its members, helping many while harming none, in the peaceful kingdom that Jesus Christ has established on earth for the salvation of the human race. The clergy, having been entrusted with its duties, will certainly fulfill them completely and diligently, if, with the care of the bishops, it has received in seminaries such discipline of mind and spirit as the dignity of the Christian priesthood requires, and as the course of time and customs demand; it must, indeed, be praised for its learning, and, above all, for its piety (1) Council of Trent,

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Session XXIII, chapter XVIII. (2) Ibid. (3) Ibid. (4) Ibid.

[*Latin ed. p. 261*]

LETTERS 26: It is necessary to excel in the virtues, so as to win over the hearts of men and lead them to obedience. The Christian wisdom, which shines with a wonderful light, must be evident in the eyes of all, so that, having dispelled the darkness of ignorance, which is most hostile to religion, the truth may be widely proclaimed and happily prevail.

Moreover, it is necessary to refute and dispel the many errors which, arising either from ignorance or from wickedness or from preconceived opinions, pervert the minds of men, drawing them away from the Catholic truth, and which cast a certain aversion upon it. This is a very great task, namely, to exhort and to argue against those who contradict, and it belongs to the clergy, who have legitimately received from Christ the Lord the power to teach all nations: "Go forth into the world and preach the Gospel to every creature" (2). Thus, bishops, placed in the stead of the Apostles, must be present as masters in the Church of God, and priests must assist them.

These most sacred duties, if ever they have been fully and perfectly fulfilled, were so in the beginnings of our religion and in the subsequent centuries, through that great struggle which was long waged against the tyranny of pagan superstition; hence, a very large body of clergy has gathered glory, and the most excellent order of Fathers and Doctors has flourished, whose wisdom and eloquence will endure for all time and to the admiration of all. Indeed, through them, the Christian doctrine was treated more subtly, explained more abundantly, and defended more vigorously, so that its truth and excellence, utterly divine, shone forth all the more; in contrast, the doctrine of the pagans was either refuted and scorned by the uneducated, or was held in contempt as being utterly incompatible with it, absurd, and unsuitable.

Furthermore, the adversaries have accomplished nothing to hinder the course of Catholic wisdom; nor have the Greek schools of philosophy, especially the Platonic and Aristotelian, which were certainly more eloquent, achieved anything. For our men, not shunning this kind of contest, applied their minds and studies to the pagan philosophers; they scrutinized with almost unbelievable diligence whatever each of them professed, considered each thing individually, examined it, and compared it: many things were rejected or corrected by them, and not a few were approved and accepted outright; and this, too, was openly declared and proclaimed by them, namely, that those things which are false according to reason and understanding are opposed to the Christian doctrine, so that whoever wishes to oppose and resist this doctrine necessarily opposes and resists even his own reason.

(1) Titus I, 9.

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(2) Mark XVI, 15.

[*Latin ed. p. 262*]

262 Letters will refute reason. Such struggles were undertaken by our forefathers, and illustrious victories were achieved, not only through faith and the arms of the faith, but also through the aids of human reason: which, guided by the light of heavenly wisdom, had entered fully into the path of truth, emerging from the ignorance of many things and from a veritable forest of errors. — This admirable agreement and cooperation between faith and reason, although adorned by the diligent studies of many, shines forth most clearly in the work of St. Augustine, namely, *De Civitate Dei*, and also in both *Summae* of St. Thomas Aquinas: within these books are indeed contained all that was acutely thought and debated by each wise man, and from them one may draw the principal ideas and sources of that eminent doctrine which is called Christian theology. — The memory of such significant examples must certainly be repeated and cherished by the clergy, especially when, in these days, arms are being forged on all sides, and old prejudices are being revived. It is only that what formerly opposed the Christian religion, lest people be led away from the ancient rites and institutions of the gods; now, the efforts of the most perverse men strive to tear away from Christian peoples all divine truths and necessities, which are given to them through the sacred bond of faith, and to render them worse than the pagans, plunging them into the greatest misery, namely, into contempt and rejection of all faith and religion. The origin of this pure pestilence, which is most detestable, lies with those who have attributed to man only nature, so that each person may, according to his own reason and judgment, know and decide about divinely revealed doctrine, and that he should not, in any way, be subject to the authority of the Church and the Roman Pontiff, whose sole duty it is, by divine mandate and grace, to safeguard that doctrine, to transmit it, and to judge it truthfully. From this, a path was opened, and it proved to be most disastrous, to corrupt and destroy everything that is above the nature of things and the grasp of man: they denied any authority that comes from God, and even denied God Himself, and finally fell into the empty follies of rationalism and the abject materialism. However, those who are called Rationalists or Naturalists do not hesitate to call this inclination towards the greatest of things, this progress of science, this progress of human society, by a false name, which is truly the ruin and destruction of both. Therefore, Venerable Brothers, you have understood and perceived in what manner and by what means the students of the Church ought to be educated, for greater things.

[*Latin ed. p. 263*]

LETTERS 263: That they may be instructed in doctrines, so that they may apply themselves suitably to the times and fruitfully to their duties. For, as

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they will be instructed in the arts of humanity and polished, "they should not approach the most excellent studies of sacred theology before they have diligently prepared themselves in the study of philosophy." We understand by philosophy that intimate and solid knowledge, the best patron of truth, which investigates the highest causes; by whose power neither they themselves will be swayed, nor will they be carried away by every wind of doctrine, in the wickedness of men, in the cunning for the subversion of error (1), but they may also provide assistance to other doctrines, by refuting and disproving deceptive appearances and fallacies of opinion. For this reason, as we have already pointed out, and have repeatedly emphasized with the most serious words, that the works of the great Aquinas should be in their hands and diligently and suitably expounded; and we expect, with certain hope, that the best fruits will be derived from this by the clergy, which we consider to be most excellent and most abundant. Indeed, the discipline of the Doctor Angelicus is wonderfully suited to merit, wonderfully useful for commenting, philosophizing, discussing, and arguing persuasively: for it clearly shows individual things, each depending on the other in a continuous series, all connected and coherent with each other, all pertaining to the highest principles; then it elevates the mind to God, who is the cause, effect, and supreme exemplar of all things, to whom, in the end, all philosophy and all men must be referred. Thus, truly, through Thomas, the knowledge of divine things and human things, and of the causes in which these things are contained, is both most clearly illuminated and most firmly established; by the influence of this discipline, the errors of the ancients were thoroughly destroyed, and also the new ones, which are different in name and appearance, but not in reality, were simultaneously overthrown and destroyed; which fact is shown by none of our writers. Human reason desires to penetrate the interior and hidden nature of things, and it can do so; but with the author and teacher, Aquinas, it does so more quickly and freely, because it does so most safely, far from any danger of exceeding the boundaries of truth. For you do not rightly call freedom that which pursues and spreads opinions according to whim and licentiousness, but rather the most wicked, deceitful, and misleading license, a disgrace to the mind and a form of servitude. Truly, the wisest Doctor proceeds within the boundaries of truth, who not only never disputes with God, the principle and the sum of all truth, but always adheres to Him.

(1) Ephesians 4:14.

[*Latin ed. p. 264*]

264 The most excellent Letters always follow their own principles, whatever they may be; and they listen attentively to what is said to the Roman Pontiff, and they truly believe in the divine authority of that office, and they hold that complete obedience to the Roman Pontiff is absolutely necessary for salvation (1). — Therefore, the clergy should be educated and trained

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in philosophy and theology, for there is no one more capable of leading and guiding others in sacred matters. However, the benefit that the clergy can bring to the Christian people by spreading the light of doctrine is so great that it can scarcely be described, if it shines forth like a lamp of virtue. — For precepts, which are intended to correct the morals of men, are generally more effective than the words and actions of teachers; and no one will easily believe in someone whose actions contradict his words and precepts. We must direct our eyes and minds to Jesus Christ, our Lord, who, as is true, has taught us what we ought to believe, and who has presented Himself to us as the perfect example of how we should live honorably and diligently pursue the ultimate good. He Himself willed that His disciples should be instructed and perfected in this way: "Let your light so shine before men, that they may see your good works, and glorify your Father who is in heaven" (2), embracing the doctrine and goodness of the Gospel, which He entrusted to them to spread. — These are indeed the divine principles by which the lives of priests should be composed and directed. It is absolutely necessary, and indeed essential, that they be convinced of these things and that they be deeply imprinted in their minds, so that they may understand that they have been chosen by God's plan, and that, while living in the world, they should nevertheless live the life of Christ. Those who truly live in Him and for Him will not be concerned with their own affairs, but will be completely devoted to the affairs of Jesus Christ (3), and they will seek not the empty praise of men, but the solid grace of God; and they will abstain from all things that are harmful and corrupt, and they will abhor them, and they will generously and joyfully pour forth the blessings of heavenly good, as is fitting for holy charity. Moreover, they will never act in such a way as to oppose or prefer their own judgment to that of the bishops, but will obey and submit to them, and in doing so, they will happily labor in the vineyard of the Lord, producing a rich harvest of the most excellent fruits for eternal life.

(1) *Opus contra errores Graecorum.*

(2) Matthew 5:16.

(3) Philippians 2:21.

[*Latin ed. p. 265*]

LITTERAE 256: The highest authority, the Roman Pontiff, is separated in sentiment and will from the state; he is joined to Christ in no way: "He who hears you, hears Me; and he who rejects you, rejects Me" (1); and whoever is alienated from Christ, disperses more than he gathers. From this, moreover, it is clear what manner and degree of obedience is due to those who hold public authority. For it is far from fitting that anyone should wish to renounce and diminish their own rights; rather, these rights should be diligently observed by all citizens, and even more diligently by priests: "They say to him: Caesar's. Then he saith to them: Render there-

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fore to Caesar the things that are Caesar's; and to God, the things that are God's." (2). Indeed, the duties imposed by God, the supreme Lord and ruler, upon men in positions of authority, are most noble and honorable, that they may govern, preserve, and increase the state through counsel, reason, and all vigilance of justice. Therefore, let the clergy diligently attend to and fulfill the duties of all citizens, not in the manner of a servant, but of one who reveres; for the sake of religion, not out of fear; while at the same time, preserving their own dignity, they are both citizens and priests of God. And if it should happen that civil authority encroaches upon the rights of God and the Church, then let the priests be a shining example of how a Christian ought to persevere in his duty, even in times of religious persecution: let him endure much in silence, let him be cautious in tolerating wrongdoing, and let him not assent to anything wicked; but when faced with a choice between obeying God and pleasing men, let him freely use that memorable and worthy response of the Apostles: "But Peter and the apostles answering, said: We ought to obey God rather than men." (3). As a sort of foreshadowing of the manner in which the sacred youth should be cultivated, it is fitting to add what pertains to youth in general: for its proper upbringing greatly concerns us, so that it may progress rightly and completely, both in the cultivation of the mind and in the perfection of the soul. The maternal Church has always fostered the young with loving care; she has devoted much effort and provided many aids, including religious families, established by certain devout men, which educate young people in arts and sciences, and especially in Christian wisdom and virtue. Thus, it was hoped that piety towards God would easily influence tender minds, from which the duties of a man would mature both in himself and in others, and in the homeland, and would also blossom into the best of hopes. Therefore, it is just that the Church now...

(1) Luke 10:16.

(2) Matthew 22:21.

(3) Acts 5:29.

[*Latin ed. p. 266*]

266 Letters, when they see their children torn from them in their early years, and forced into schools where either the knowledge of God is entirely suppressed, or where some perversion of it is instilled, and where there is no remedy for the accumulation of errors, no faith in divine documents, and no place for truth to defend itself. To prohibit the authority of the Catholic Church from the domains of letters and learning is, moreover, a great injustice, because the task of teaching religion, that very thing for which no human being is indispensable for attaining eternal salvation, has been given to the Church by God; and no other society has been given this, and therefore that society rightly affirms and defends its own rights, and laments when they are undermined.

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Furthermore, it must be carefully and vigorously ensured that in schools which are either entirely or partially under the jurisdiction of the Church, no danger befall the youth, nor any detriment be suffered to the Catholic faith or to honest morals. In this matter, the diligence of both the clergy and of upright men will be of great value, both if they strive to ensure that the doctrine of religion is not only not removed from those schools, but, as far as possible, remains there, and remains with suitable and virtuous teachers; and also if they find and employ other means by which that very doctrine may be imparted to the youth, purely and conveniently.

The plans and efforts of fathers of families, united together, will also be very effective. Therefore, it is necessary to admonish and encourage them as much as possible, so that they may understand how great and sacred are the duties that lie between them and God regarding their books; so that they may raise up children who are knowledgeable in religion, well-mannered, and who devoutly worship God; so that they may be condemned if, in their credulous and unwary youth, they entrust them to suspicious teachers. In these duties, together with the bearing and raising of children, fathers of families must know that there are inherent rights, according to nature and equity, and that these are such that they may relinquish nothing of them, nor may any human power take them away, since, when a person is bound to God by certain duties, it is an outrage for a person to prevent it. Therefore, let parents consider that while they bear a great burden in the protection of their children, they bear an even greater burden in educating them for a better and more excellent life, which is the life of the soul; and that when they themselves cannot accomplish this, it is entirely right and necessary for them to employ the services of others, so that their children may hear and receive the necessary instruction in religion from approved teachers.

It is indeed a frequent and truly beautiful example of religious generosity that, in places where there are no public schools except those called "neutral," Catholic men, with great effort and expense, establish and maintain schools in which the youth are taught the principles of the Catholic faith.

[*Latin ed. p. 267*]

LETTERS 267: Let them open their doors to labors and expenses, and let them maintain them with equal constancy. These are most excellent and safest refuges for youth, and it is most desirable that, according to the needs of things and places, they be established in various ways. It must not be passed over in silence that the Christian education of youth is converted into the greatest possible benefit for the Republic itself. Indeed, it is clear that immense and grievous harms are to be feared for that state in which the method of teaching and discipline is devoid of religion, or, which is worse, is opposed to it. For immediately, that supreme authority, which by its admonition commands us to fear the authority of God, and to hold

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all the oracles of God with the firmest faith, is abandoned and despised; and human science is then inclined to the most pernicious errors, namely, naturalism and rationalism, leading to ruin. Hence, it will come to pass that judgment and arbitrium regarding things to be understood, and more readily, things to be done, will be permitted to every man, and the authority of those who govern the state will be weakened and afflicted, for they will be imbued with the worst opinion, that they are bound in no way by the denomination and rule of God, especially if they observe and tolerate the rule of any man. But when the foundations on which all authority rests are removed, human society is dissolved and scattered, and there will be no state, but only a dominion filled with arms and occupied by wickedness. How can a state, puffed up with its own resources, pray for such a calamitous misfortune? How can it reject the aid of the Church? How can it, while relying on the Church? It is manifest and clear to any prudent person. Therefore, civil prudence itself suggests that the part pertaining to bishops and the clergy should be left to them in the education and instruction of youth; and that diligent care should be taken that men of languid faith or those openly averse to the Church should not be called to that most noble office of teaching. It would be intolerable if men of such character were chosen to profess the sacred doctrines. Furthermore, it is of the greatest importance, Venerable Brothers, that the dangers be averted and repelled which threaten your flocks from the contagion of the Freemasons. We have shown elsewhere, in special and encyclical letters, how full of wickedness and how ruinous to the state are the designs and arts of this dark sect, and we have also indicated means by which its power should be suppressed and weakened. It will never be enough to warn Christians to avoid such a faction of wickedness, for it, although it conceived a grave hatred for the Catholic Church from the beginning, and subsequently confirmed it more strongly, and...

[*Latin ed. p. 268*]

268 Letters, though they may inflame, do not always openly foment enmities, but rather they often act subtly and deceitfully, especially targeting youth, who are ignorant of affairs and lacking in judgment, ensnaring them miserably, even under the guise of piety and charity. — Regarding the caution to be exercised towards those who deviate from the Catholic faith, we urge you to strictly adhere to the prescriptions of the Church, so that no harm may arise for the Christian people, either through custom or through the perversity of opinions. Indeed, we see and deeply lament that our abilities and those of you are not equal, and that this very danger cannot be completely averted by our will and efforts; nevertheless, we do not consider it alien to our purpose to encourage your pastoral zeal, and to sharpen the eagerness of Catholics, if common endeavors can remove or overcome whatever obstacles stand in the way of common goals. Let us,

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therefore, with the exhortation of our most holy predecessor, Leo the Great, awaken religious zeal and, against the most insidious enemies of souls, let the care of all the faithful arise (1). Therefore, let everyone embrace the cause of religion and the Church as their own; and let them defend it faithfully and perseveringly. — It is true that the efforts and endeavors of Catholics may sometimes fall short of what is hoped for and expected; but they are sufficient to restrain their adversaries and to strengthen the weak and dejected, besides the great benefit that lies in the awareness of fulfilling one's duty. Although, even this is not easily achieved; the diligence and efforts of Catholics, applied with a sound and persevering purpose, will not fail to produce results. For it has always been and will always be the case that matters fraught with great difficulties and beset on all sides, will ultimately succeed, provided they are tackled courageously, as we have urged, and with Christian prudence. Indeed, truth, to which man is naturally most inclined, must eventually prevail; although it may be tested and obscured by disturbances and mental afflictions, it cannot be extinguished. — It seems opportune to convene in Bavariam, not for just one reason. For, since it is counted among the Catholic kingdoms by the grace of God, it does not so much need to receive the holy faith, as to preserve and foster the faith already received from its forefathers: moreover, those who are publicly esteemed (1) *Serm. X V, c. 6*.

[*Latin ed. p. 269*]

LETTERS 269 concern laws aimed at governing the state; most of these are beneficial to Catholics. Furthermore, since Catholics are also the majority of citizens and inhabitants, we have no doubt that they will all wish to assist and support their mother, the Church, with every possible means. Therefore, if everyone contends with such diligence and fervor as they ought, we shall certainly be able to rejoice in the happy outcome of these endeavors, with God's help. Indeed, we urge everyone to strive, for just as discord is the most pernicious thing, so too is concord and harmony the most beneficial and effective, with united forces striving towards the same goal. Moreover, it is fitting for Catholics, through laws, to express their concerns about the condition and state of the republic, and to seek and desire a state that benefits both the Church and themselves, which would be most equitable, rather than being harshly opposed. Nor is it right for anyone to accuse and reproach those of ours who seek such assistance: for the enemies of the Catholic name have been accustomed to use such means, that is, to extract and almost extort laws from those in power, laws that are odious to civil liberty and sacred rights; is it not fitting, then, for Catholics to employ the same means, and to do so in such a way as to promote religion in the most honorable ways, and to defend its goods, endowments, and rights, which have been divinely bestowed upon the Catholic Church, and which should be held in the highest honor by all those who govern and

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those who are subject to them? In the goods of the Church, which We must always and everywhere preserve and defend from all injury, it is certainly most important to enjoy such freedom of action as is required for the care of human salvation. For this is the divine freedom, derived from the only-begotten Son of God, who raised up the Church through His shed blood, who established it eternally among men, who willed to preside over it Himself: and therefore, it is so proper to the Church, as a perfect and divine work, that those who act against it act against God and against their duty. For, as We have said, and not for the first time, God established His Church in order that it might have charge of the ultimate good of souls, of things far greater than all of nature; that it might pursue, seek, and bestow, through the means of faith and grace, a new life from Christ in men, a life that brings about eternal salvation. Now, since the nature and rights of any society are determined by its purposes and goals, it follows easily that the Church is a society so distinct from the civil society that the closest causes and purposes of each are distinguished from the other; that it is a necessary society, extending to the entire human race, as it pertains to the Christian life, united in one faith and one communion.

[*Latin ed. p. 270*]

270 Epistles, when composed, should be such that those who refuse or abandon [the Church] are forever excluded from the joys of the heavenly life; for the Church is, above all, a society of its own kind, and the most excellent, because of the celestial and immortal goods to which it strives, and to which it directs all its efforts. Indeed, free will does not imply the power to use things in any way that is pleasing, but rather the power to use them according to their proper purpose.

The Church, as an instrument, is fitted and necessary to spread the Christian doctrine, to administer the most holy sacraments, to perform divine worship, to regulate and govern the entire clergy: with these duties and benefits, God has endowed and equipped the Church, and He has willed that it alone should possess them. He has commanded that all things revealed by His Spirit to mankind should be entrusted to it; and He has established it as the sole interpreter, defender, and teacher of truth, the wisest and most certain, whose precepts both individuals and states must heed and follow; likewise, it is clear that the commands given by the free Church are concerning matters to be judged and decided in such a way as best serves His divine purposes.

Therefore, civil authorities, without cause, take offense at the freedom of the Church, when in truth, both civil and ecclesiastical power have the same origin, namely, from God. Therefore, they cannot be at odds with each other, nor can they hinder or destroy each other, since neither can God deny Himself, nor can His works be in conflict with each other; rather, they are wonderfully harmonized.

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Furthermore, it is clear that the Catholic Church, as it extends its influence more widely and freely, obeying the commands of its Author, does not encroach upon the power of the civil authority, nor does it hinder it in any way; but rather, it protects and safeguards it, just as happens with the Christian faith, which is not so much an obstacle to the light of human reason as it is an addition to its splendor, or a means of turning away from errors and opinions to which human beings are prone, or a means of expanding and elevating the scope of understanding.

As for Bavaria, certain particular reasons exist between this Apostolic See and that region, reasons which have been ratified by agreements and are sacred. The Apostolic See, although it has relinquished much of its right to settle matters, has nevertheless always preserved and defended them faithfully, as is its custom; and it has never done anything that could give rise to any complaint. Therefore, it is earnestly to be hoped that both parties will stand by the agreements and observe them properly, both in word and in spirit.

Indeed, there was a time when some disturbance arose, causing complaints; these...

[*Latin ed. p. 271*]

LETTERS 27. However, Maximilian I, having made a decree, relaxed [certain regulations], and again, Maximilian II restored [them], introducing certain opportune restrictions. Indeed, it has been discovered that these very regulations were abolished in more recent times. Nevertheless, from our religion and from the prudence of the Prince who governs the Kingdom of Bavaria, we are very confident that he, who has inherited the distinguished legacy of the Maximilian's, will himself, with foresight, consider the safety of the Catholic cause, and promote its growth, removing all obstacles. Indeed, the Catholic people, who are the majority of the citizens, and who, without any doubt, show great charity towards their country and obedience to their rulers, will certainly, if they see that their interests in this important matter are being considered and satisfied, demonstrate excellent obedience and fidelity towards their Prince, in a manner similar to that of children towards their father, and will follow all his counsels with the greatest willingness and with all their strength, fully fulfilling them. This, Venerable Brothers, has been communicated to you by the reason of our Apostolic office. It remains for us all to earnestly implore the grace of God, and to join with those who pray to Him, the most glorious Virgin MARY, and the patrons of the Kingdom of Bavaria, that, graciously approving of our common prayers, He may grant the Church tranquility and freedom, and may allow Bavaria to enjoy ever greater glory and prosperity. We impart to you, Venerable Brothers, the Apostolic blessing, a pledge of heavenly favors, and especially of Our benevolence, which We bestow upon you, Clergy and people, entrusted as you are to your vigilance. Given

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at Rome, near St. Peter, on the 22nd day of December, in the year 1837, in the tenth year of Our Pontificate. LEO XIII, POPE.

[*Latin ed. p. 272*]

272 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF THE ORDER OF SAINT BENEDICT, CASSINENSE CONGREGATION, CONCERNING THE PARISH AND ITS ENDOWMENTS. Dated March 11, 1887. In a sunny and pleasant location called Ianuen, within the Archdiocese of Pegli, there exists an ancient Monastery of the Order of Saint Benedict, with a parish church dedicated to Saints Martin and Benedict. After setting aside questions concerning the right of patronage, which the noble family Pallavicino-Durazzo claims to possess over this church; it has become certain that it belongs to the Benedictine monks, although since November 6, 1844. Indeed, it was granted to them by the Most Blessed Memory of Pope Gregory XVI, through a rescript of the Holy Congregation of Bishops and Regular Canons, in full and perpetual dominion, and furthermore, the faculty was granted to appoint secular priests, in place of the monks, to the care of souls. Upon the promulgation of this rescript, the Abbot, who was the perpetual prior of the church of Saints Martin and Benedict, on July 16, 1862, elected the priest Pittaluga, according to the form of the Constitution of Pope Benedict XIV, to govern the aforementioned parish in the town of Pelii, and presented him to the Archbishop of Ianuen, who canonically instituted him. The situation was such that the parish priest and the council of the parish began to build a new church, with the approval of the Archbishop of Ianuen, in a more suitable location and conveniently situated, in order to transfer the parish of Saint Martin there; and in order to bring the aforementioned work to completion, they obtained permission from the Government to contract a loan of 70,000 lire.

COMPENDIUM OF FACTS.

[*Latin ed. p. 273*]

GENOA, OR THE ORDER OF ST. BENEDICT. 273 Furthermore, it was stipulated that, in addition to paying five booklets for each centennial [anniversary], the parish priest should also transfer to the Order, as security for the loan, the parochial house of St. Martin, with the adjacent buildings, and also the new constructions annexed to the church. This, as the procurator of the monks learned, led the procurator to appeal to the Most Holy Prince, raising objections regarding the parish priest's conduct, and furthermore, he requested that the rights of the Order, both temporal and spiritual, be fully protected. But since the parish priest did not cease from the work he had begun, the procurator again insisted with the Most Holy Order, Bishop and King, that the sale of the monastery and other properties, which was

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already imminent, be prevented. Upon receiving this, the Most Holy Congregation wrote immediately to the Archbishop of Genoa on November 20, 1885, instructing that the proceedings being carried out by the Vicarious Curate be suspended, until the Holy Congregation should decide on the appeal. However, since this decree did not succeed in restraining the parish priest in his office, hence, in response to the procurator's renewed pleas, the Most Holy Congregation wrote on April 6, 1886: "The Superior General should exercise the rights granted to him by the Benedictine Constitution, BEGINNING WITH [FIRMANDIS]." In virtue of the aforementioned Constitution, the Superior General could have removed the parish priest from the care of souls; nevertheless, in order to avoid scandal, he did not make use of this power, because he foresaw that the parish priest, being stubborn, would pursue what he had begun, and would not agree to be removed from his position. In these circumstances, the Most Holy Congregation recalled the matter for careful examination, and, after thoroughly examining the rights of both parties, it responded on May 29, 1886: "The transfer of the parish is not to be expedited." However, since the parish priest was striving to complete the new church by fair means or foul, the Most Holy Congregation, in an audience held on September 3, 1886, ordered the Curia of Genoa to remove the priest Pittaluga from the office of vicarious curate of the Benedictine parish. Acts, Vol. XX, p. COXXXIV. 18.

[*Latin ed. p. 274*]

274. Regarding the matter of the transfer of parishes, or the Order of St. Benedict, and another priest to be presented by the patrons, with the necessary formalities observed. After all these matters had fallen into disarray, following an audience on November 22, 1886, the Most Holy Father ordered that the case be examined in a plenary session, in due order of law.

A SYNOPTIC DISCUSSION: WHAT IS FAVORABLE TO THE ORDER OF ST. BENEDICT.

The General Procurator of the Benedictines argued with all his might that the requested transfer should be denied, because the causes are lacking, for which such transfers are usually granted according to the law. To this end, he cites Chapter VII, Session 21 of the Council of Trent, which grants the transfer of parishes to mother churches or neighboring churches only when the parish churches have collapsed to such an extent that they must be repaired and restored, and when there are absolutely no resources available to carry out these repairs. "Furthermore," the cited document states, "even if the parish churches are under the patronage of someone, they must be repaired and restored from the fruits and revenues belonging to them in any way. If these are not sufficient, all the patrons and others who receive fruits or revenues from these churches must, in the absence

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of these, use all appropriate means to compel them to contribute to the aforementioned repairs, removing any pretext, exception, or contradiction. If, however, everyone is suffering from extreme poverty, they may be transferred to mother churches or neighboring churches, with the faculty to convert both the aforementioned parish churches and any other ruined churches into profane, but not scandalous, uses, provided that a cross is erected there."

Based on these legal precedents, the Procurator stated that none of these circumstances are present in this case, which would justify a request for a transfer according to the teaching of Trent; indeed, it is evident that the parish of St. Martin, in addition to being abundant in all kinds of vestments and sacred furnishings, is in excellent condition, having been restored a few years ago. Furthermore, the Procurator argues that distance is not a valid reason for the transfer, and, presenting authentic documents, he proves that the parish is not more than 500 paces from the provincial residence by a straight line.

[*Latin ed. p. 275*]

The monastery of Saint Benedict is located 275 paces away; and the road leading to the church is, for the most part, level, easily accessible, and as convenient as possible. Indeed, the parish of Saint Martin, with several other houses situated nearby, is found in a more suitable location than the new church, which has begun to be built in the extreme part of the town, causing great damage and inconvenience to more than a thousand parishioners. Moreover, it is evident that the current parish has become less suitable and is unable to accommodate all the parishioners, who now number 5000. The procurator observed that, if infants, the elderly, those absent, and the infirm are excluded, scarcely 3000 people attend the church; and of these, at most 1000 can enter the church at the same time; therefore, the parish, which can accommodate 1500 people, is more than sufficient. However, conceding, but not admitting, that the church of Saint Martin is truly insufficient; nevertheless, he stated that it is not possible to move the location; because the number of the faithful, and not the transfer of the parish, which, in law, is equivalent to alienation, is provided for by the ministry of parochial coadjutors: and this is the teaching of both the Holy Rota in the case of *Parochialis* 13 July 1713, and the Sacred Congregation in the case of *Melevitana* 27 January 1782. Nevertheless, it is not necessary to resort to this remedy, since the parish of Saint Martin, besides the vicar who performs the duties of a pastor, has two coadjutors; and within the boundaries of the same parish, there are other churches, among which is mentioned the church commonly called Bastan, located in the nearby town, where Masses are celebrated, and the Gospel is explained to the faithful. It has been stated, without justification, that the Benedictine monks opposed the transfer of the parish, having given their consent through a letter writ-

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ten by Father Frattin. To this objection, the procurator responded, noting that the monks, after scarcely examining the matter, immediately protested; and he adds that the General Chapter of the Order has, since 1881, formally issued a protest to the Archdiocesan Curia against the then-proposed plan to transfer the parish to the church of Boria.

[*Latin ed. p. 276*]

276 IANUEN. OR THE ORDER OF ST. BENEDICT. To all these considerations, he adds that, in order to complete the work, greater debts should be incurred, by which the new church, along with its annexed buildings, would be burdened; yet there is hope that these debts might one day be extinguished. Hence, it is certain that a danger arises, that the town will have neither an old nor a new parish. Not a new one, because a debt secured by alien property, by which it is burdened, could not long endure. Not an old one, because the church of St. Martin, whenever it loses its parochial status, would fall into the hands of the treasury, from which, by reason of the annexed right of parochiality, it would be withdrawn, until the debt is paid. Therefore, lacking the canonical reasons that demand a transfer, and indeed possessing most serious reasons that reject it, the Procurator concludes that the requests of the parish priest should be rejected by the judicial tribunal.

WHAT APPEARS TO FAVOR THE PARISH PRIEST. On the other hand, the parish priest contends that the transfer of the parish, far from being merely useful, is necessary, and should be granted. To demonstrate this, he first observes that the current parish of St. Martin is located in an elevated and isolated place, too far from the town, which rises near the seashore. Moreover, the road leading to the parish is narrow, and so steep and inconvenient, that it is difficult, and almost impossible, for many, especially the elderly, to reach the parochial church. In addition to this, he states that the aforementioned parish, due to the increase in the number of the faithful, is no longer able to adequately satisfy the spiritual needs of its members; indeed, it is so cramped that it can scarcely contain 700 of its 5000 members within its walls. He asserts that there is no doubt about the necessity of such a transfer; especially considering the testimonies of many neighboring parish priests, who, with one voice, have testified in writing that the parochial church of St. Martin, whether because of its narrowness, or because of its distance from the town, or finally because of the difficulty of access, no longer adequately responds to the spiritual needs of the people. He urges that this is also confirmed by the Archbishop of Ianuen, who, knowing the situation, considers the requested transfer to be entirely necessary, and readily agrees to the construction of a new church at...

[*Latin ed. p. 277*]

JANUA, or the Order of St. Benedict, 277: This effect would be achieved,

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and the work begun was commended with the highest praise. What more need be said? This necessity having also been admitted by the religious of the Benedictine Order, and this is clearly evident from two letters, one from Father Marino Frattin, and the other from the Abbot General, written concerning this matter. On this matter, he concludes that the present opposition of the religious is inexplicable and unjust; moreover, that through the transfer of the parish, the rights of the religious suffer no loss or detriment. Indeed, the condition of the religious would be improved by the transfer; for the parish of St. Martin would have a new church, more spacious and suitable, with attached accommodations. Having considered all of this, the following questions were proposed: I. Whether the parishes of St. Martin and St. Benedict should be transferred in this case. II. Whether said parish should be exempt from any debt contracted for the construction of the new church, or from any other burden whatsoever, in this case. RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, after mature consideration of the proposed questions, decided on March 11, 1887, to respond as follows: To I, negatively. To II, provision being made in the first, that is, affirmatively in all respects. FROM WHICH THE FOLLOWING IS DEDUCED: I. From the disposition of the Council of Trent, Session 21, chapter 7, concerning parish churches, that even if they have a patron, and require repair and restoration, they must be repaired and restored from the fruits and revenues belonging to them in any way. II. That if these fruits and revenues are not sufficient, the patrons or others who receive fruits from said churches, and the parishioners, must be compelled to contribute, all appellations and contradictions removed.

[*Latin ed. p. 278*]

278. CONCERNING PARISHES, OR THE ORDER OF SAINT BENEDICT, SECTION III. If, indeed, all are burdened by extreme poverty, in this case, it is necessary to transfer them to mother churches or nearby churches, with the faculty to convert, both said parish churches, as well as other churches, to profane, but not scandalous, uses, provided that a cross is erected there. IV. The translation of a parish church is not permitted for legitimate and canonical reasons, especially if the consent of anyone who has an interest is lacking, and if, through the translation, prejudice is caused to a third party. V. It is not necessary to resort to the translation of a parish due to the increased number of parishioners, but rather, provision can be made for their spiritual well-being through the ministry of parochial assistants. VI. In [a certain] location, the translation was denied, both because the causes prescribed by the sacred canons were lacking, and because the consent of the religious of Saint Benedict who had an interest was lacking, and furthermore, because through the translation, prejudice was caused to them.

SPOLETAN OR RIETI, CONCERNING THE RIGHT TO GRANT SUF-

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FRAGE. June 10, 1887. SUMMARY OF FACTS. The most pious B. Viscardi, born in Leonessa, who recently passed away with great praise, on March 5, 1881, among other pious bequests, left two scholastic subsidies, and also the same number of annual donations, to be given on the anniversary of his death to seven unmarried young women, under certain conditions. He wished that the parish priests of the place, as well as those in the surrounding area, should inquire into the merits of the young women; but also that they should draw lots to select the young women to whom the dowry would be given, and that the names of three young women should be presented by the Bishops of Spoleto and Rieti, designated by the testator for the granting of such subsidies.

[*Latin ed. p. 279*]

SPOLETO OR RIETI 279. At the time when the testamentary documents were written, there were ten parish priests in Leonessa, of whom two neither possessed a parochial church nor resided in that city. However, from the deposition of the heir's trustee, it is clear that the parish priests to whom the execution of such legacies was demanded could not be more than seven, precisely the number of girls who were to receive dowries, the allocation of which was to be carried out by the respective parish priests. Therefore, the parish priests of the churches of St. Giles of the Valley of Leonessa; St. Giles of Corno; St. Barbara; St. Maximus; St. Donatus; St. Nicholas, and of Exterorum were chosen for this task. But with the passage of time, the two parishes of St. Donatus and Exterorum were united by decree of the Sacred Congregation on August 16, 1828, and the parish priest of Exterorum was replaced by a substitute from Piaurra. Furthermore, on November 9, 1847, the village commonly called Bigioni was separated from the Church of St. Maximus and a parish was established under the title of St. Vincent Ferrer, with the condition that the parish priest of St. Maximus, as long as he enjoyed the fruits of his life, should suffer no loss, and therefore should be able to exercise his rights concerning the pious Viscardi institution. Moreover, in consequence of the Apostolic Beneplacitum of July 22, 1859, when the city of Leonessa was divided into two parts, one under the jurisdiction of the Curia of Spoleto, and the other under the jurisdiction of the Curia of Rieti, it happened that the two parochial churches dedicated to St. Giles were united, so that at the present time there are not more than seven, but six parish priests. It was in this situation that the priest of Bigioni, St. Vincent, who, after the death of the former parish priest, succeeded him in October 1881 to the parochial revenues and all his rights, also attempted to exercise the rights pertaining to him concerning the pious Viscardi institution, together with the other parish priests; but in vain, since the other parish priests strongly opposed him. Therefore, in order to overcome their resistance, the Holy Congregation proceeded by means of a formal letter, which, as is customary, was sent to both Ordinaries for information and

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opinion, after hearing those who had an interest in the matter.

[*Latin ed. p. 280*]

280 SPOLETAN OR REATIN DISPUTATION. CONCERNING WHAT FAVORS THE PAROCHIAL ORATOR. The consulter, to whom a vote on this matter had been entrusted, considered that two doubts should be raised: firstly, whether it pertains to the parish priest of Villa Bigioni to have a vote in the administration of pious legacies; and secondly, whether the parish priest of St. Giles in the locality of Valle Leonina should have a double vote. Addressing the first doubt, he observed that, from the nature of the facts, it is evident that the testator had not considered the proportions that should exist between the dioceses of Spoleto and Rieti; but rather, he had intended that the judgment regarding the qualifications of the candidates should belong to the local parish priests, since, as they know their own parishioners intimately, they are best suited to render a proper judgment on their qualifications. Furthermore, he observed that, in resolving this matter, the testator's intention must be kept in mind, which has the force of law in private foundations, provided it does not prescribe anything scandalous; and that, if it is not expressly stated, it must be inferred from other statements made by the testator, since everyone is presumed to arrange things in a coherent manner. Indeed, it is evident from the documents that the testator intended to benefit the inhabitants of Leonessa, and that the suitability of the candidates should be judged by their own parish priests. Moreover, it is clear that the seven parish priests were called by the testator only incidentally, because at that time there were actually seven who were actively involved, but the testator's intention was that every portion of the inhabitants should be represented by their own parish priest. Therefore, whether the number of parish priests increases or decreases, their college should always consist of all those who are present, and each should have only one vote, because in this way the intention of the pious founder is most fully satisfied. Having stated these things, it is evident from the facts that Villa Bigioni has only recently acquired its own distinct identity, and that the right...

[*Latin ed. p. 281*]

The SPOLETAN or REATIN document, number 281, concerning the right to participate in the inheritance of Viscar, concludes that the aforementioned property should be administered in the manner desired by the testator, or, alternatively, that the administration of the pious work of Viscar should be represented by the testator's own parish priest. Furthermore, it states that the agreement reached by the Bishop of Rieti, according to which the parish priests of S. Maximo and Villa Bigioni would alternate in giving their vote, should not be admitted. This is because such an agreement would diminish the rights of both parish priests, contrary

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to the testator's intention. Since the testator's will is that the parishioners of both parishes should have the right to vote each year for the benefit of Viscar, and that they should be represented by their own parish priest, it follows that each parish priest has the right to give a vote each year, and that it is forbidden for any parish priest to give two votes, even if one of the parishes is united with another parish to which the vote belongs. Moreover, it cannot be argued against the parish priest of Bigioni that he is bound by the agreement, since in the year 1859, an agreement was initiated according to which only the parish priests included in the decree of the Apostolic Delegate were to give a vote. It should be noted that, while the parish priest of Matricis was still alive, and that he, while alive, had reserved all rights concerning the administration of the Viscar inheritance for himself; there was no valid reason for the parish priest of Bigioni to immediately object to said agreement. Finally, it adds that, in the worst-case scenario, the aforementioned parish priest could not have altered the testator's will by his silence; just as two Ordinaries, having entered into an agreement, could not alter it. Nor could the assertion of the approval of the Holy See add weight to this agreement; until the text of said approval is presented, it must be presumed that it was made in a general form, or, if less, a proclaimed approval or confirmation by the Pope would not detract from the pious will of the testator; because it cannot be believed that the Supreme Pontiff would wish to act contrary to it, using his full power. Having considered these matters, both in fact and in law, the consultant concludes that the parish priest of Villa Bigioni should be granted a vote in the administration of the pious work of Viscar. And this is not as a parish priest, but as...

[*Latin ed. p. 282*]

282 SPOLETANA, or REATINA. Saint Giles is substituted in Corno, or so that the number of seven voting members is firm; but it must be understood that the parish priest himself, as called by the testator, must be included. After these matters, a consultant, proceeding to another point of contention, argues to the parish priest of Saint Giles in the Valle Leonina that only one vote, and not two, belongs to him; and that this can easily be deduced from what was noted above concerning the testator's intentions.

WHAT APPEARS TO BE AGAINST THE PARISH PRIEST, THE PETITIONER. On the contrary, the parish priests, acting collegially, contend with all their might that the prayers of the parish priest of Saint Vincent should be rejected from the very threshold of judgment, because they are devoid of any foundation, and because they infringe upon the rights of third parties. To support this, they assert, firstly, that the testator did not prescribe that the number of parish priests should reach seven, who were to administer his pious inheritance; but rather, that he wished that this office be carried out by the parish priest of the town of Leonessa. Secondly,

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they observe that if the parish priest of Saint Michael the Archangel was a substitute for the parish priest of the Exterorum, it was because both the church and the parishioners were located in the same city; which cannot be asserted of the parish of Saint Vincent, which exists in Villa Bigioni. Furthermore, they are certain that the suppression of the parish of Saint Giles in Corno would cause harm to its parishioners, if the exercise of such a right were granted to the parish priest of Villa Bigioni. Finally, they argue that the decree, issued on July 29, 1859, by which the diocese was reorganized, had established that the administration of the Viscardi inheritance should remain in the state in which it was found, so that, indeed, a change would be detrimental and prejudicial to the parishes designated by the pious testator; and that this was the reason why two votes were reserved to the abbot of the locality of Vallonina. The opinion of the Bishop of Rieti seems to agree with that of the parish priests, who asserts that the parish priest of Bigioni, in matters concerning the pious inheritance of Viscardi, is equivalent to the parish priest of Saint Giles in Corno.

[*Latin ed. p. 283*]

The parish of SPOLETANA, or REATINA, which was suppressed, cannot be substituted for the following reasons: 1. Subsequent changes cannot invalidate or alter prior rights; 2. Because, in the convention concluded in the year 1859, it was declared that the pastors designated by the testator shall be entitled to nominate girls for dowries and to provide for the maintenance of students; 3. Because, in the case of seven pastors, seven girls must be provided for, just as, in the case of the united parishes of S. Maximi and S. Vincentii in Vallis Bigioni, one girl is presented for a dowry, so there must be one pastor who can attend the girl's admission and selection; 4. Finally, because the proportion between the pastors of Reatina and Spoletana, established by the testator, would be altered, so that while previously there were four pastors from Reatina and three from Spoletana who cast votes, afterwards the roles would be reversed, and three votes would belong to the pastors of Reatina, while four votes would belong to the pastors of Spoletana. However, the Bishop of Reatina seems to disagree with the pastors on this point, stating that the pastor of Bigioni should be granted the right to cast a vote in turn with the pastor of S. Maximi, but according to the number of parishioners of each. Therefore, since the parish of S. Maximi is five times larger than that of S. Vincentii, the Bishop believes that this proportion must be observed in casting the vote. Regarding the other question proposed in the second doubt, the Bishop of Reatina states that the pastor of Vallis Leonina, to whom the suppressed parish of S. Aegidii in Corno was incorporated, does not have the right to cast a double vote in this case, because the strictness of the law applies to him. Nevertheless, he believes it is appropriate to grant him this right, 1. because the number of seven pastors established by the testator should at least be

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maintained in principle; 2. because in this way, the ancient proportion of votes between the dioceses of Spoletana and Reatina, established with full force, would remain intact; 3. so that there would be as many votes as there are parishioners who have the right to the pious legacy of Viscardi; 4. finally, because in this way, article 25 of the aforementioned convention would remain firm, by virtue of which, the pastors designated by the testator must cast their votes according to the rules given by the Delegate Marini.

[*Latin ed. p. 284*]

284 SPOLETANA OR REATINA. Having considered all these matters, the following questions were proposed for resolution:

I. Whether the parish priest of Villa Bigioni is entitled to a share in the administration of the pious legacies of Viscardi in this case.

II. Whether the parish priest of St. Aegidii in the locality of Valle Leonina is entitled to a double share in this case.

RESOLUTION. The Sacred and Most Reverend Congregation, in its plenary session on June 10, 1887, gave the following response:

To 1. Affirmative.

To 2. Negative.

FROM WHICH THE FOLLOWING ARE DEDUCED:

I. The last will and testament of a testator has the force of law, provided that it does not prescribe anything scandalous.

II. In resolving questions that may arise concerning the dispositions of a testator, the testator's intention must be kept in mind.

III. And if that intention is not sufficiently clear, it must be understood from other statements or passages that are more clearly expressed, since it is presumed that all dispositions are consistent with each other.

IV. In the matter of the share granted to the parish priest of Bigioni, and the double share denied to the parish priest of Valle Leonina, it was the opinion of the Sacred Congregation that the testator's intention was that each parish should be represented by its own parish priest.

ABERDONENSIS: FINANCIAL MATTERS CONCERNING THE ENGLISH CONGREGATION OF THE ORDER OF ST. BENEDICT AND THE ABBEY OF ST. BENEDICT, FORT-AUGUSTUS, SCOTLAND.

Date: August 12, 1887.

SUMMARY OF FACTS. The Anglo-Benedictine monks from the monastery of BÃ¤za Lamspringensi, under the title of Saints Adrian and Dionysius, were, at the beginning of the century, expelled and returned to

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England. In the year 1834, they founded a monastery in Brouduay.

[*Latin ed. p. 285*]

In ABERDONENSIS, lacking the support necessary for life, seven, who should have left after seven years, were received into other Benedictine communities in Anglia. Since nothing was more to their heart than to establish a new monastery, given the opportunity, they entrusted a sum of 2000 pounds sterling to a certain Father Hall for this purpose, who, through careful management and alms collected, increased that sum to 9000 pounds sterling by the year 1875. Meanwhile, a noble man named Lovat offered to the Benedictines residing in Anglia a large estate with an ancient castle called Fort-Augustus, located in the county of Scotiae, so that they might found a monastery there. To this was added the Marquis of Bute, who gave them a sum of 5000 pounds sterling for the same purpose. The General Superior of the Anglo-Benedictine Congregation and the governing body accepted the offer, and decided, without opposition, to establish the Lamspringe community in that castle, commonly called Fort-Augustus, on May 11, 1875, and appointed Father Vaughan to collect contributions for the construction of the monastery and for the honest sustenance of the monks. The work, begun under such auspices, was completed three years later, and, at the prayers of Father Hall, the General Chapter elevated the monastery to a collegiate status. Subsequently, in order to obtain the rights and privileges that belonged to the Lamspringe Abbey, the Bishops, together with certain noblemen of Scotiae, presented a humble petition to the Most Holy Prince, requesting that the monastery of Saint Benedict at Fort-Augustus be declared independent of the jurisdiction of the General Superior and the Chapter of the Anglo-Benedictine Congregation. The Supreme Pontiff, favorably disposed towards their prayers, on November 28, 1882, and on December 12th, issued a Brief, by virtue of which the aforementioned monastery was permanently erected into an Abbey, with all and singular rights and privileges that are proper to such Abbeys, and that same Abbey was placed immediately under the Holy Apostolic See.

[*Latin ed. p. 286*]

286 The Bishop of ABERDONENSIS declared the community to be entirely exempt from the jurisdiction of the General Superior and the Chapter of the Anglo-Benedictine Congregation. This Apostolic Brief was demanded for execution without apparent opposition. Only Father Browne, who had contributed a sum of money for the education of an Anglo-Benedictine monk, requested the return of the sum paid for that purpose. Following his example, the monks Hall Margisson and Valker also claimed the sums they had paid, stating that they had intended to benefit the Anglo-Benedictine Congregation in general, and the Monastery of Fort-Augustus in particular. Meanwhile, Father O' Gorman succeeded

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the General Superior Bruchall, who, after some time had passed, began to raise complaints with the Bishops concerning the serious damages that had befallen the Anglo-Benedictine Congregation, due to the Monastery of Fort-Augustus having been made an independent and exempt Abbey. Not content with this, he insisted upon Prior Vaughan returning to him the sum of 240,525 livres owed to him; namely, 180,750 livres pertaining to the monastery of Lamspringe; 21,775 livres belonging to Father Browne; 25,500 livres given by the Bishop of Scarbrick and six monks; and finally, a credit of 12,500 livres from the monastery of Downside, which Vaughan's father had given to him as a dowry when he was received among the monks. But when Prior Vaughan rejected the request, the General Superior appealed to the Sacred Congregation, presenting a supplication in which he repeated the aforementioned sum of 240,525 livres, as being due to the Anglo-Benedictine Congregation. This supplication was sent to the Sacred Congregation of Propaganda Fide, to which Father Cody also appealed, on behalf of the Monastery of Fort-Augustus, requesting that certain sums, amounting to more than 280,000 livres, be returned from the Anglican Congregation, namely: 1°. 200,000 livres held at the Standard Bank in South Africa (Africa); 2°. The fruits of the same sum from January 1883; 3°. An allowance of 500 livres granted to the Marchioness of Maurptry, in favor of Fort-Augustus, which had been diverted by Father Hutter; 4°. A legacy of 5080 livres, in favor of the same monastery, from the brothers Crovkal.

[*Latin ed. p. 287*]

287. Abeidovensis, lectio 5.

5°. Una summa di librarum 45,000, erogata dal monastero di Lamspringensis a Padre Guy, per estinguere i debiti, insieme con i frutti della stessa somma.

6°. Un'altra somma di librarum 5,000, collocata da Padre Hall a sostegno del Noviziato di Fort-Augustus presso il monastero di San Michele.

7°. Infine, qualunque somma spettante al monastero di Lamspringensis, sia che sia collocata in sterline a Liverpool, sia che sia detenuta dai monaci Anglo-Benedettini. Dopo aver ricevuto informazioni e le deduzioni di entrambe le parti, la questione doveva essere presentata in assemblea generale il giorno 8 febbraio 1886. Tuttavia, Padre Bernard Smith, procuratore della Congregazione Anglo-Benedettina residente a Roma, chiese il giorno precedente che, prima di discutere della questione del denaro, fosse concessa la libertà di parola riguardo al Breve di esenzione del 12 dicembre 1882, poiché era stato concesso alle parti interessate senza essere ascoltate. In risposta a queste nuove richieste, la Sacra Congregazione per la Propaganda della Fede, in assemblea generale il giorno 8 febbraio 1886, ritenne opportuno consultare Sua Santità, affinché la questione fosse rimessa alla Sacra Congregazione per i Vescovi e il Regolamento; e così fu

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effettivamente fatto.

Discussione sintetica:

QUELLO CHE FAVORISCE LA CONGREGAZIONE ANGLO-BENEDETTINA.

Riguardo alle librature 187,750 che appartenevano all'Abbazia di Lamspringensis, il Generale O' Gorman sostenne che dovevano essere restituite alla Congregazione Anglo-Benedettina, basandosi sul motivo che la suddetta somma, poiché la proprietà del monastero era della Congregazione Anglo-Benedettina, doveva servire a fondare un monastero Anglo-Benedettino. Pertanto, la somma avrebbe potuto essere attribuita al monastero di Fort-Augustus, nella supposizione che esso stesso fosse un monastero Anglo-Benedettino e che lo fosse stato in passato. Tuttavia, una volta accertato che il monastero di Fort-Augustus non è più Anglo-Benedettino, ma scozzese, ne consegue che la suddetta somma...

[*Latin ed. p. 288*]

288 The monastery of Aberdeen ought to be restored to the Anglo-Benedictine Congregation, lest the goods belonging to the monastery be unjustly taken away. Moreover, it is the case that three of the four religious members of the Abbey of Lamspringe who survived, and who are the heirs of the monks of that same monastery, no longer reside in the monastery of Fort-Augustus, but in other monasteries in England; and therefore, it seems neither just nor equitable that the monks of the monastery of Lamspringe should not enjoy the goods belonging to their monastery. Furthermore, I have observed that Father Vaughan, as Superior of the monastery of Fort-Augustus, at a time when the monastery still belonged to the Anglo-Benedictine Congregation, swore an oath that he would never make any pact with the Congregation that would be contrary to the rights and constitutions, nor would he transfer any monastery, residence, or house, or any notable part of the goods belonging to any monastery, residence, or house, to another or to others. Regarding this matter, Father Vaughan could not, by virtue of the aforementioned oath, alienate the monastery, nor could he legally and validly expend any sum of money without the due consent of the General Superior and the Governing Body. Since it is established that he, besides obtaining the independence and exemption of the monastery of Fort-Augustus from the Anglo-Benedictine Congregation, expended the aforementioned sum belonging to the monastery of Lamspringe, entirely without the knowledge and consent of the General Superior and the Governing Body; he states that he expended it illicitly and invalidly, and is therefore obligated to restore it. Furthermore, Father Vaughan is also obligated regarding the sum of 25,500 livres, partly given by the Anglo-Benedictine monks, and partly obtained

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by them through alms and offerings, for this reason; because, indeed, the General Chapter granted the monks the faculty of making offerings, but under the condition that they be made in favor of the Anglo-Benedictine monastery. This is clearly stated, as it appears from the definition of the General Chapter held on July 17, 1878, where it is written: "Permission is granted to make offerings in favor of the monasteries of Saint Michael and Saint Benedict, and to conven-"

[*Latin ed. p. 289*]

ABERDENENSIS 289, concerning our nuns at Stanbrook; but also from the testimony of three monks, who declare that alms were offered for the Anglo-Benedictine Order, and not for the Scottish monastery, for which they assert that they would not have given anything. Therefore, if the offerings of 25,500 livres were given exclusively for the Anglo-Benedictine monastery, and on the contrary, it is proven that the same were given by Father Vaughan for the Scottish monastery against the will of the donors, it is clear that they must be returned to the Anglo-Benedictine Congregation. Similarly, it must be said concerning the 21,775 livres given to the monastery of Fort-Augustus by Father Browne, an Anglo-Benedictine monk. Indeed, these were given exclusively for the education of an Anglo-Benedictine monk, and not for the benefit of the Scots. Certainly, after the monastery of Fort-Augustus was exempted by the Anglo-Benedictine Congregation, the purpose intended by Father Browne would become not only difficult, but impossible. Unless one were to suppose that the Anglo-Benedictine Congregation must send its own monk to the monastery of Fort-Augustus, for the purpose of obtaining education: which would be a ridiculous pretense, once that monastery has been declared independent and exempt. Finally, the General Prefect urges that the sum of 12,500 livres, together with interest, be returned to the monastery of Downside, where the religious profession was made, and which has not been paid since the death of his father, or since the year 1881. And the reason for which the aforementioned sum is claimed is this: because it is clear that the same was assigned by his father to the monastery of Downside, with the intention of supporting the religious profession of his son. Since the son made his religious profession in the monastery of Downside, it follows that the aforementioned monastery acquired a right over this sum. And therefore, it is no longer within the power of the son to dispose of it, or to transfer it to another monastery; because a monk does not possess anything, and whatever he acquires, he acquires not for himself, but for the monastery. And this right cannot be lost by the monastery of Downside, because the son, after making his

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profession in that monastery, [reference omitted].

[*Latin ed. p. 290*]

290. L'abbazia di Aberdeen fu abbandonata e legittimamente trasferita in altro luogo. Infatti, dal fatto che un monaco abbandona il suo monastero, la sua condizione non può essere peggiorata, come afferma l'autentico testo *De Monachis* § "Se, tuttavia, colui che abbandona il monastero in cui ha vissuto, si trasferisce in un altro monastero, anche in tal caso la sua sostanza rimane e viene rivendicata dal monastero precedente, dove ha rinunciato a tutto." Inoltre, si potrebbe sostenere che l'abbazia di Downside deve pagare all'abbazia di Fort-Augustus, per il titolo di mantenimento, i frutti della dote, finché Padre Vaughan è in vita. Infatti, il *Surdus* insegna nel suo trattato *De alimentis*, titolo 9, questione 27, numeri 9-24, che un monaco deve ricevere il mantenimento dal monastero per il quale lavora. Infine, Padre Vaughan si appellò inutilmente al Breve Apostolico, con il quale era stato esentato dalla Congregazione Anglo-Benedettina, per liberarsi dall'onere di restituire le suddette somme di £240,525. Tuttavia, il Generale rispose a questa obiezione, osservando che il citato Breve era viziato da un difetto di estorsione e di frode, e quindi era nullo, poiché era stato ottenuto con un interesse che danneggiava gravemente i titolari, senza che fossero stati consultati; e che, se il Sacratissimo Principe avesse conosciuto tutte queste circostanze, certamente non avrebbe concesso, in nessun modo, il Breve di esenzione, a causa del difetto della causa che lo impelleva, o lo avrebbe concesso solo con determinate restrizioni, come afferma Reiffenstuel nel *Liber 1 Decretorum*, titolo III *De Rescriptis*, numero 183, per evitare che la Congregazione Anglo-Benedettina subisse un danno finanziario. Riguardo alla seconda questione, il Generale sostenne con forza che Padre Vaughan non doveva assolutamente pagare all'abbazia di Fort-Augustus le £200.000 richieste, ma che tali somme, insieme ai frutti maturati dal momento della separazione di Fort-Augustus, dovevano essere consegnate alla Congregazione Anglo-Benedettina, per il motivo che esse appartengono al monastero di Lamspringensis, che appartiene alla Congregazione Anglo-Benedettina. Se, invece, Padre Vaughan avesse utilizzato per l'abbazia di Fort-Augustus i 10.000 sterline che Hunter Blair aveva donato...

[*Latin ed. p. 291*]

ABERDONEXSIS 291 livres ont été données, ce qui a été fait de manière injuste et par caprice, et par conséquent, le R.P. Vaughan a ordonné qu'elles soient restituées; car elles doivent être conservées au profit de l'Abbaye de Lamspring. De plus, le R.P. Vaughan est lié par la même obligation concernant les sommes qui sont perçues au nom du moine Hall. Il s'efforce de le prouver en se basant sur la déclaration du R.P. Hall, qui affirme que, en premier lieu, 2860 livres ont été remises au R.P.

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Vaughan à Fort-Augustus, sous la condition, acceptée par lui, que ces sommes seraient destinées exclusivement à l'éducation des moines de la Congrégation anglo-bénedictine. Puisque, après la séparation de Fort-Augustus, cette condition ne peut plus être satisfaite, il est juste et équitable d'exiger que la restitution soit faite à la Congrégation anglo-bénedictine. Enfin, le même R.P. Hall déclare avoir remis au monastère de Saint-Michel d'Hereford 5000 livres, avec l'approbation des supérieurs, avant que celui-ci ne soit fondé à Fort-Augustus. Et par conséquent, il réclame ces sommes, ainsi que toutes les autres, comme son propre bien particulier, afin de pouvoir les utiliser conformément aux constitutions de la Congrégation anglo-bénedictine, à laquelle il appartient. CE QUI PARAÎT FAVORABLE AU MONASTÈRE DE FORT-AUGUSTUS. D'un autre côté, le R.P. Cody fait valoir que le monastère de Lamspring a été lié au Chapitre général de la Congrégation anglo-bénedictine depuis 1875, avec le consentement explicite de quatre moines du monastère de Lamspring, qui ont approuvé le transfert du monastère. Compte tenu de ce fait, il observe que, depuis le jour du transfert, le monastère de Lamspring est légalement représenté par le monastère de Fort-Augustus. Par conséquent, tous les biens, droits et charges du monastère de Lamspring ont été acquis par le monastère de Fort-Augustus, et lui appartiennent donc, même après que celui-ci a été déclaré indépendant et exempt de la juridiction de la Congrégation anglo-bénedictine par un bref apostolique. Car les biens n'ont pas été acquis par la Congrégation en général, mais en particulier par les moines individuels.

[*Latin ed. p. 292*]

292. It is reported that the monastery of Fort-Augustus is possessed by the [Anglo-]Benedictine Congregation, and it is unheard of that a monastery legitimately separated and exempted by the Congregation should be obliged to pay a price for itself. Therefore, it follows that Father Vaughan did nothing contrary to his oath, because it was the Holy See, at the request of the Anglo-Benedictine Congregation, that exempted the monastery, and he could, while preserving the sanctity of his oath, offer prayers as often as the spiritual good of the religious and the faithful required it. Furthermore, the surviving religious of the monastery of Lamspringe should fear nothing from the separation of Fort-Augustus, because, weakened by age or infirmity, they can go to that monastery, where they will be received humanely and provided with the necessities of life. Concerning the offerings of 25,500 livres, which were given or collected by some monks of the Anglo-Benedictine Congregation, it has been observed that they are not owed in any way to the Anglo-Benedictine Congregation for the same reason mentioned above; for it must be understood that the monastery of Fort-Augustus was separated and exempted by the Supreme Pontiff, together with all its possessions

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that were legitimately acquired before the separation. Nor does it matter that some monks declare that they would not have given anything, either for the Scottish monastery or for Fort-Augustus, if they had foreseen this exemption and separation from the Anglo-Benedictine Congregation. Since these monks freely gave these offerings to the monastery of Fort-Augustus without any condition, it is clear that they immediately became the property of that monastery, and they should also belong to it even after the separation. In order to free the monastery of Fort-Augustus from the obligation of returning 21,775 livres, which Father Browne left for the education of a Benedictine monk in that monastery, Father Cody endeavors to demonstrate that the witness did not wish that this Anglo-Benedictine monk should be; but only stipulated in general that he belonged to the Order of Saint Benedict in An-

[*Latin ed. p. 293*]

The Aberdeen [province] includes all existing [houses]. This generic designation must, without fail, include Scotland, which constitutes a part of the British Kingdom. Furthermore, a sum of 12,500 livres, with interest, was requested from the Abbot General by the monk Vaughan, and assigned to him by his father; for the monk declares that these funds were left to him by the monastery of Fort-Augustus in the year 1881. And it is most abhorrent to the truth that the Apostolic Brief concerning the exemption is infected with the vice of deception or trickery, because the Anglo-Benedictine monks, when questioned about the exemption granted, were not consulted, and certain circumstances, which ought to have been expressed, were suppressed from the Supreme Pontiff. Indeed, if the Holy See omitted to question the Anglo-Benedictines about this matter, it is to be considered that it did so deliberately, and not through negligence, which is inadmissible in a matter of such importance; for it certainly knew the sentiments of those monks, and the reasons for which the monastery of Fort-Augustus so strongly opposed the exemption. As for the second matter, Father Vaughan maintains that 200,000 livres, previously approved by the council, are deposited in the "Standard Bank of South Africa," and belong to the monastery of Fort-Augustus, because these funds were generously given by David Hunte and Blair for the construction of the choir of the Church of Fort-Augustus, so that the interest could be paid for the support of the monks, until the need existed. He then denies that large sums from the monastery of Lamspringensis were substituted for these, and that, in their place, expenses were incurred for the construction of Fort-Augustus. To prove this, he presents the declaration of David Hunte and Blair, who assert that such a substitution could not have been made without their consent and approval, because they had specifically and expressly given the aforementioned sum for the construction of the choir of the Church, and not generically for the construction of Fort-Augustus. Moreover, even

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granting, for the sake of argument, that the sum of 200,000 livres deposited in the "Standard Bank of South Africa" represents the greater part of the funds of the monastery of Lamspringensis...

[*Latin ed. p. 294*]

294 The representative of ABERDENENSIS; nevertheless, it is urged that a sum of this kind should be contributed by the monastery of Fort-Augustus, along with its fruits, because the monastery of Lamspringe is canonically incorporated into the Abbey of Fort-Augustus. Therefore, the Anglo-Benedictine Congregation must give its consent, so that this sum, along with its fruits, may be demanded from the monastery of Fort-Augustus, and that it may not further involve itself in this matter. It has been decreed that this is the correct understanding regarding the sum of 500 pounds, which the Marchioness Murphy gave for Fort-Augustus, and the sum of 5000 pounds, which the brothers Crookal bequeathed to the same monastery. Indeed, it is urged that these sums be returned, because they were taken by Father Hutter for necessities, which the Anglo-Benedictine Congregation was obligated to provide, according to Chapter XI concerning accusations. However, these latter sums, because the brothers Crookal bequeathed them under the condition that several Masses be celebrated after their death, of which ten have been celebrated after the death of one of the brothers, cannot, for this reason, be subject to any doubt. The Anglo-Benedictine Congregation asserts that it must pay 45,000 pounds to the monastery of Lamspringe. Indeed, it is certain that this money belongs to the monastery of St. Adrian and St. Dionysius, and that the Congregation borrowed it from the aforementioned monastery, in order to extinguish a debt that Father Hall had incurred by engaging in illicit financial dealings. Finally, the advocate claims 5000 pounds for himself, which Father Hall, a monk of the restored Community of St. Adrian and St. Dionysius, had deposited at the monastery of St. Michaelis, for the support of novices who were being sent to that monastery at that time. And he affirms that the reason for this petition consists in the fact that this sum is the property of the monastery of St. Adrian and St. Dionysius. And not content with this, he also claims any sums that the surviving monks of the Community of St. Adrian and St. Dionysius, or the religious of the Anglo-Benedictine Congregation acting in their name, may possess. Having considered these and other matters, the following points must be resolved: 1.

[*Latin ed. p. 295*]

A. BERDONENSIS 295. Questions. I. Whether the petition of Father Anselm O'Gorman, General Superior of the Anglo-Benedictine Congregation, should be admitted, and for what matters. II. Whether the petition of Father Jerome Vaughan, Prior of the Monastery of Saint Benedict at

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Fort-Augustus, should be admitted, and for what matters.

RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, after deliberation, decided on June 16, 1887, to respond as follows: The resolutions of the Chapter of the Benedictine Congregation of December 6, 1883, and the subsequent ones, are to be presented.

Obeying the mandates of His Excellency, Father O'Gorman, General Superior of the Anglo-Benedictine Congregation, transcribed the resolutions of December 6, 1883, in which the following declaration of Father Hall was found: namely, that, given that the Monastery of Saint Adrian would be canonically united to the Monastery of Saint Benedict at Fort-Augustus, the distinct principal sums would remain, and the monks educated with the funds of Lamspring would remain in the Anglo-Benedictine Congregation, if a separation were ever to occur.

To the chapter resolutions, the testimonies of six religious were also added, from which it is deduced that it was stipulated that, in the event of a separation, the principal sums of the Monastery of Lamspring would be returned to the Anglo-Benedictine Congregation.

With these matters considered, the case was presented again with the questions stated above.

RESOLUTION. After all matters had been duly considered, the Fathers responded on August 12, 1887: Regarding I. Concerning the sums of Father Browne and Father Vaughan, affirmatively. Concerning other matters, negatively. Regarding II. Concerning the sums indicated under numbers 1, 2, 3, 4, and 5, affirmatively. Concerning the sums indicated under numbers 6 and 7, it is pleasing to reach an agreement.

On the same day, a report on these matters was presented in an audience with the Most Holy Father, Pope Leo XIII. His Holiness deigned to approve the resolutions, notwithstanding any objections.

[*Latin ed. p. 296*]

296 FROM ABERDEEN. I. By the translation and union of one monastery to another; also, all the goods, rights, and obligations of the former are transferred and united to the latter. II. And this applies even if the monastery is subsequently canonically declared exempt from the Order, because the goods are not held by the Order in general, but in particular by each individual monastery. III. Nothing prevents a monk from taking an oath of religion, who, after having promised by oath, has not promised to alienate himself, nor to pass to any other monastery or house; he may petition the Holy See to obtain an exemption for some monastery or house. Especially if the exemption would serve the spiritual good of the religious and the faithful. IV. It is not within the power of a religious to transfer money given to him with the intention of spending it in a particular monastery to another monastery; because, after having made

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his profession, he left the monastery and legitimately transferred himself to another. V. A religious ought to receive sustenance from the monastery for which he labors. VI. An apostolic brief should not be impugned for the fault of surreptitiousness or deceit, if the Supreme Pontiff, through no negligence, but after due inquiry, omitted to question those who had an interest in the matter. FROM THE SACRED CONGREGATION: A Compendium of the Life and Miracles, as well as the acts in the cause of canonization, of the Seven Blessed Founders of the Order of the Servants of the Blessed Virgin Mary. The illustrious city of Florence, which not only fostered the study of wisdom and the arts, but also, through the praise of religion, brought forth men of great virtue, a most fruitful and renowned mother throughout the world, in the thirteenth century after the birth of Christ, produced seven citizens, whose virtue was so great that it is fitting that their names be gloriously proclaimed in the Church, "from Laude, our glorious men and our fathers" (Ecclesiasticus, chapter 44).

[*Latin ed. p. 297*]

297 Their names were: Bonfilius Monaldus, Bonaiuncta Manettus, Manettus Antellensis, Uguccio Tiguecionus, Amideus de Amideis, Sosteneus de Sostenéis, and Alexius de Falconeriis. When these times of perversion arrived, due to the most grievous schism stirred up by Frederick II, from which a flood of the foulest errors and vices flowed; and also due to the internal discord of the citizens, who, forgetting both Christian charity and even humanity itself, fell into mutual slaughters; they considered that they could not endure such evils, and therefore they withdrew from the dictates of the Christian Religion. Consequently, when a certain assembly of pious men had already been gathered in Florencia, distinguished by the title of "Laudantes of the Blessed Virgin" (for they praised the Virgin so that through Her, Christ our Redeemer and Judge might be merciful to the people), they gave a name to this assembly, and it soon came to pass that, through their virtue and example, this pious society grew to two hundred men, men worthy of respect and nobility. This occurred in the year of Our Lord 1233. In the same year, while the Seven men were praying more fervently in the aforementioned assembly, on the day dedicated to the Sacred Virgin in Heaven, they saw Her and heard Her urging them to embrace a more perfect way of life, and, having set aside the nobility of their lineage and their riches, to dedicate themselves safely to the service of Christ. Without delay, after having heard this, as was fitting, the Seven men, before Ardingo, the Bishop of Florencia, distributed their most extensive possessions to the poor, and, clothed in the simplest and coarsest garments, and wearing sackcloth, they withdrew to a small building in the countryside, located near the city on the Camaria road, on the very day of the Nativity of the Most Blessed Virgin, in the same year, 1233. In this withdrawal, they resolved above all to observe these things:

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to love God, to embrace each other with the greatest charity; to love their neighbor, to subdue the body through various mortifications, to nourish the spirit through constant contemplation and prayer, and, as much as is possible on earth, to strive for the heavenly. They so perfectly fulfilled what they had proposed to themselves, that the people of Florencia, admiring their constancy in this most difficult way of life, considered them to be more than ordinary men, and that God confirmed the opinion of the people through a most wonderful and sweet miracle. It is reported, and it is clearly proven, that when our brethren were asking the members of this society where they obtained the alms with which they lived, the children, and even the infants among them, would acclaim them with these words: "Behold, the servants of the Blessed Virgin Mary! Behold, the servants of the Blessed Virgin Mary!" Among those who should be esteemed first is Saint Philip Benitius, a great ornament and support of the Servants of the Blessed Virgin Mary, who, when he was only five months old, encouraged his mother with eloquent words to offer alms to the Servants of the Mother of God. Therefore, Pope Innocent VIII, in the Bull which begins with the words "From the perspective of the Apostolic See," issued in the year 1487 of the Incarnation of the Lord, in which the privileges of the Order of the Servants of Mary are confirmed, rightly and justly says that they were called "as if divinely, from the mouth of infants."

[*Latin ed. p. 298*]

298 FROM THE SACRED RITUAL MANUAL. But concerning the beginnings of this Order, something must be said. The Seven Blessed Ones, after the miracle which we have recounted, whether driven by humility, or by a desire to, far from the distractions, contemplate the mysteries of the Lord's Passion and the sorrows of the Most Holy Virgin with greater peace, and therefore more deeply, withdrew to Mount Senario. How great was their sanctity, their abstinence, their concord, and the other virtues, especially the sincere and extraordinary profession of faith, hope, and charity, is indicated by the words of Benedict XIV: "So piously and so holily, and with such mortification of the senses, did these seven founders live in the hermitage, that Cardinal Ganfridus, the legate of Gregory IX, admonished them about being too harsh with themselves" (De Servorum Dei Beati, Book 2, Chapter 24, number 166). They lived in caves, content with water and herbs; and meanwhile, they chastised their bodies with vigils and scourges, in order to bring it into the service of the spirit. This led to frequent gatherings of people at the hermitage, many of whom earnestly desired to join our Blessed Ones. Hence, both Ardingus, the Bishop, and Saint Peter Martyr, who had been sent by Gregory IX to Florence with the office of Inquisitor of the Faith, repeatedly urged the seven men to elevate their Society to the dignity of a Religious Order, with established laws and a certain governance. But the humility of the Blessed Ones prevailed,

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until the Most Holy Virgin commanded that her oracle be fulfilled, which they were afraid to do. This happened on the third Sunday of Lent in the year 1239, when a small vine, which the seven men had planted on Mount Senario shortly before, was suddenly seen by them to be overflowing with abundant flowers, leaves, and grapes. The very Virgin herself deigned to explain the mystery. At the same time, she appeared to Bishop Ardingus, and declared that she had intended that figure to signify the fecundity and beauty of the new Order, which was to be established for the glory of her name. "And having said this in the manner of one giving a command," the Virgin said, "great concern seized the seven men to immediately obey the most sweet and most powerful Lady, and they earnestly prayed that she would be present with them; for it was a very serious matter, which is never well accomplished unless it has been divinely inspired. The most merciful Virgin not only inspired, but appearing to the Blessed Ones on the Friday of the year 1239, she designed and described the entire plan of the future Order. She ordered that the new members of the Order should wear black habits, in memory of their sorrows; she ordered that the Rules of Saint Augustine should be observed; and then she consecrated the name of the Religious family, namely, "Servants of Mary," which God himself had long ago signified to be very pleasing to Him, through infants and sucklings. Therefore, the Sacred Congregation of Rites (on May 7, 1677) and Clement X (on the 17th of the same month and year) rightly affirmed that the Virgin herself had instituted the Order of the Servants. How sweet, how glorious this is, we cannot express in words. Therefore, congratulations to the seven Blessed Ones and their companions; congratulations to the entire Order of the Servants.

[*Latin ed. p. 299*]

299. Those who strive to emulate their parents in religion and piety, and who continue to honor and venerate the glorious Queen of the Martyrs, by whose will and grace they were born, for the greatest good of the Christian republic and for the benefit of the faithful. Furthermore, seven blessed men, having spread the sweet fragrance of Christ far and wide, and renowned for their miracles, also departed in the same Mount Senario, where they had led a heavenly life rather than a human one; namely, on August 31, 1251, Blessed Manettus Bonajuncta; on January 1, 1262, Blessed Bonfilius de Monaldis; on April 18, 1266, Blessed Amideus; on August 20, 1268, Blessed Manettus Antellensis; and on the same day and year, namely, May 3, 1282, the Blessed Uguccionius and Sosteneus. Last of all, Blessed Alexius de Falconeriis died on February 17, 1310, in Florencia, but his body was soon after placed among his companions. Not long afterwards, their sacred relics were hidden beneath the altar of the temple, and a great throng of the faithful immediately began to gather to see them, both because of the growing reputation of their sanctity, and because of the miracles which the

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Almighty God did not fail to grant in response to their prayers. Never was any one of the seven blessed men invoked by name, but all were invoked together by the collective appellation of the Seven Blessed Founders. It was the constant opinion of pious men that in them there was one spirit dwelling in seven bodies; such was the concord of their brothers, such the similarity of their lives and virtues. This is why their sacred ashes were placed in the same urn, so mixed together that no part of one body could be distinguished from the others. Their heads, however, are kept separately; yet no one can indicate to which of the Seven Blessed this or that head belongs. Moreover, the altars, votive tablets, and even the antiphons and prayers of their Office are common to them all. From this it is clear that, by the consent of the faithful, they have entered into the Church. This is also clearly confirmed by the acts of the Cause. For example, when the most noble Falconeri family presented the Cause for the canonization of Blessed Alexius, separated from the Cause of the others, in the Holy Congregation, on October 4, 1717, Pope Clemens XI signed the Commission for its Introduction, and also approved its perpetual cult on December 1 of the same year, presenting the same documents that had been presented for the other six Blessed Founders. Furthermore, the unity of liturgical worship towards the Seven Blessed Founders was sanctioned by Benedict XIII: for on March 3, 1728, he approved the new Office of the Seven Founders, and granted that it, along with the Mass according to the double rite of the second class, should be recited by the entire Order of the Servants of the Blessed Virgin Mary. All of these things seemed to offer the greatest possible aid to the Cause, when it had reached the stage of examining the miracles in due order. But the outcome disappointed hope. For from the Sacred Congregation of Rites...

[*Latin ed. p. 300*]

300 FROM THE SACRED CONGREGATION: With pious consent of the people and by the decrees of the Church, it seemed to be without doubt that the Seven Holy Founders, acting as one person, should have miracles attributed to their common invocation, just as is done in the cases of martyrs. Nevertheless, although it seemed that the same legal principle could be applied, after many instances of miracles having occurred, the highest legal experts of that time, and the physicians who defended them, in a regular Congregation held before Benedict XIV, may God bless him, gave a negative response, from which the Decree of August 8, 1744, was issued. Indeed, after an investigation into the merits, as they say, it was deemed that the proposed miracles were not sufficient as a basis for canonization, because they were obtained through the collective invocation of the Seven Holy Founders. From that time until our age, the cause remained dormant. But, with the occurrence of marvelous miracles attributed to the collective invocation of these same Saints, at the request of the Archbishop

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of Lugo, in whose diocese one of these miracles occurred, and also at the repeated urging of the Order of the Servants of the B.V.M., the prejudicial question was again, with Pontifical permission, brought before the Sacred Congregation. The Sacred Congregation, on June 26, 1884, adhering to the interpretation presented by the Promotor of the Holy Office on this matter, which was excellently written, judged that, based on the newly presented evidence, it was possible to proceed with the examination of at least four miracles, which were attributed to the collective invocation of the Seven Holy Founders; this decision was ratified and confirmed by the Most Holy Pope Leo XIII on the same day. Therefore, the following four miracles were examined and accepted: First, there is the case of Joanna Lugli, who, in the year 1728, was afflicted with a catarrhal flux and great difficulty in breathing, and after excruciating headaches, felt that she had completely lost her sight. Since the remedies used were of no avail (nor could they have been, because, according to the unanimous opinion of experts, she suffered from a severance of the optic nerves, which always accompanies blindness in such cases; and also because of the advanced age of the patient), she invoked the help of the Seven Holy Founders, encouraged by her daughter, Reverend Mother Sister Clara Silvestri, a nun in the Monastery of St. Clare in Rimini. This Reverend Sister sent an image of the Seven Holy Founders to her mother; and when she applied this image to her forehead, the headache began to gradually subside. With hope renewed, she went to the aforementioned Monastery on the feast of the Conversion of St. Paul, in order to regain the use of her sight through their intercession; and there, after praying earnestly with her daughter, when she was touched again with the same image, she not only immediately regained her sight, but was able to see so clearly that she was able to distinctly recognize the images of the Seven Holy Founders, as the witnesses recount, and in the future she remained completely healed in her sight. Secondly, there is the remarkable healing of Reverend Mother Sister Maria Pulcheria, a professed nun in the Monastery of the Servants, Reformed, of the Blessed Virgin Mary, located in Arcus, in the Diocese of Trent, who, for many months, was afflicted with a severe dysentery and bleeding, and then, in the year 1718, fell ill with a fever.

[*Latin ed. p. 301*]

From St. G. Rimi! M 301, she suffered intensely, especially at night, so much so that it not only hindered her sleep, but also afflicted her body in a terrible way. Furthermore, frequent and excruciating stomach pains, and violent vomiting, had brought the patient to such a state that the doctors had completely despaired of her recovery. In the year 1725, she was afflicted with sciatica, and that grievous pain was added to her suffering. This multitude of illnesses intensified in the year 1728, when she convinced herself that she could not recover, except by a miracle. Therefore, she invoked

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the patronage of the Seven Holy Founders, and those who, touched by her devotion, were present with their relics, helped her so that she immediately began to feel better, and regained her health, which had delighted many for years. Likewise, through the intercession of those same Saints, Teresia Romagnoli, who had suffered for fifteen years from the most atrocious epileptic seizures, arising from meningitis, lay so ill that she invoked death as a relief. For she, while a priest was praying, was touched by the relics of those Saints, and not only rose from her bed, but recovered completely, and devoted herself to her work. The following morning, on July 16, 1729, she went to the house, to give thanks to God and to her intercessors for so great a benefit. Finally, a miracle, perhaps less obvious but no less wondrous, which, as if commanded by God, brought back to life Mary Anne Barsottelli in the year 1881, who, after having happily given birth to a son, was struck by a severe puerperal fever, and was reduced to such a state that the doctors, seeing no hope of her recovery, ordered that she be given the last sacraments of the Church. For the disease had not only invaded the most important parts of her body, but had also destroyed them. She, encouraged by Father Angelici Lorini, who had been called to be with her in her final moments, although she could not speak, commended herself with her heart to the patronage of the Seven Holy Founders, and immediately, the lethargy that pressed upon her gave way to recovery, and she regained her strength by eating nourishing food, and afterwards, she had nothing to envy in those who were more robust. These miracles were, as is customary, discussed in the three Congregations of the Holy Order. A preliminary hearing was held in Rome with Cardinal Lucido Maria Parocchi, the Relator for the Cause, on October 4, 1886; a preparatory hearing was held in the Apostolic Palace at the Vatican before the Roman Cardinals entrusted with the Sacred Rites, on March 1 of this year, 1887; and a general hearing was also held in the Vatican Palace before the Most Holy Lord, on the eve of June of the same year. In which, through the Most Reverend Cardinal Lucido Maria Parocchi, the Relator, the following question was proposed: Whether, and concerning which miracles, after the devotion to the Seven Holy Founders of the Order of the Most Holy Virgin Mary, there is evidence in the case, and to what effect does it pertain? Most Blessed Father, the votes of the Roman Cardinals and the Consultors were carefully considered. However, in a matter of such importance, before making any decision with his supreme authority, he warned...

[*Latin ed. p. 302*]

From the Sacred Canons, 302, it is necessary to earnestly and with fervent prayers to implore God, that He might grant a grace of His celestial counsel. On that very day, when the Church rejoiced in the Lord, celebrating the Feast under the Honor of All the Saints, after the Holy Sacrifice had been offered, sitting on the throne in the hall of the Pontifical Vatican

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Basilica, He received the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Lucidus Mariam Parocchi, Relator of the Cause, together with Father Augustine Caprara, Promoter of the Faith, and Father Lawrence Salvati, Secretary of that same Sacred Congregation, and, with them present, He solemnly declared: That there are four miracles, brought about by God in response to the collective invocation of the Seven Blessed Founders of the Order of Servants of the Blessed Virgin Mary: namely, the first: the instantaneous and perfect healing of the eighty-year-old woman, Joanna Lugli, from an incurable blindness; the second: the instantaneous and perfect healing of Sister Maria Pulcheria, a professed nun in the monastery of the Order of the Servants of the Blessed Virgin Mary, located in the diocese of Trent, from a chronic gastroenteritis, long-lasting sciatica, and other ailments; the third: the instantaneous and perfect healing of Teresia Romagnoli, from a very severe cerebrospinal meningitis, marked by the most violent epileptic convulsions; and the fourth: the instantaneous and perfect healing of Maria Anna Barsottelli, from a malignant and raging puerperal fever. He ordered that this decree be made public and recorded among the Acts of the Sacred Congregation of Rites on the first of November of the year 1887. These matters having been concluded, all was now ready for the Sacred Congregation to be asked: Whether, with the approval of the virtues and the four miracles, it is possible to proceed safely to the solemn canonization of the Seven Blessed. This doubt, which the Most Reverend Cardinal Lucidus Mariam Parocchi, Relator of the Cause, had proposed at the General Congregations held in the Vatican Basilica, on the seventeenth day before December of the current year, was answered affirmatively by both the Most Reverend Cardinals and the Consultors present, before the Most Holy Pope Leo XIII. The Blessed Father, having received the votes favorably, considered it prudent to postpone the matter further, and to earnestly pray to God, that He might grant Him the Spirit of Truth in rendering this supreme judgment. Finally, on the fifth day before December of the same year, on the First Sunday of Advent, after the Holy Sacrifice had been offered, sitting on the throne in the noble hall of His Vatican Palace, with the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Lucidus Mariam Parocchi, Relator of the Cause, as well as Father Augustine Caprara, Promoter of the Faith, and Father Lawrence Salvati, Secretary of that same Sacred Congregation, present, He decreed: That it is possible to proceed safely to the solemn canonization of the Seven Founders of the Order of the Servants of the Blessed Virgin Mary. This decree was made public on the same day, and recorded in the Acts.

[*Latin ed. p. 303*]

FROM S. G. B [YOUR 303 S. Rituum Congregationis was referred to], and it was ordered that Apostolic Letters be issued under seal concerning

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the solemnity of Canonization whenever it is to be celebrated. This, so long desired, is finally accomplished, and the Order of Blessed Mary, the Virgin, repeatedly requests it, and, with divine favor, it will bring blessings to the Christian commonwealth and especially to the people of Italy, for true prosperity and peace. FROM THE SACRED CONGREGATION FOR THE INDEX: DECREE, on the II day of December, 1887. The Sacred Congregation of Most Eminent and Reverend Cardinals of the Holy Roman Church, by the Most Holy Lord Pope Leo XIII and the Holy Apostolic See, having been appointed to oversee the Index of books of pernicious doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian commonwealth, condemned and condemns, proscribes and proscribes, or orders that the following works be referred to the Index of Prohibited Books, which are: Ledrain, E. *Histoire d'Israël*. Première et deuxième partie. Paris, Alphonse Lemerre, éditeur, 1879-1882. Lenormant, François. *Les origines de l'histoire d'après la Bible et les traditions des peuples orientaux*. — *De la création de l'homme au déluge*. Vol. 1. — *L'humanité nouvelle et la dispersion des peuples*. Vol. 2. Paris, 1880-1882-1884. The author, before his death, commendably declared that he would reject whatever in his works the Church should judge worthy of censure. *Les Saints Evangiles, traduction nouvelle*, by Henri Lasserre. Paris, 1887. *Los secretos de la Confession*. Madrid, Establecimiento de G.

[*Latin ed. p. 304*]

From S.C. Index 304 Osler, 1886.—'The Spurious Sacrament.' Madrid, Imprint of Ramon, 1887. By a certain author, a priest, under the pseudonym Constantio Miraita. Decree of the Sacred Office, February 4, 1887. Therefore, no one, of whatever rank and condition, may dare to publish, or, having published, to read or retain the aforementioned work, in any place, and in any language, but rather, they are bound to deliver it to the Ordinaries of the places, or to the Inquisitors of heretical perversity, under the penalties indicated in the Index of prohibited books. These matters, having been related to Me, the undersigned, S.I.C. from the Secret Archives, were approved by the SANCTISSIMO DOMINO NOSTRO LEONI PAPAE XI, and He commanded that they be promulgated. In whose faith, etc. Given in Rome on December 20, 1887. FR. THOMAS MARIA, Bishop of SABINA. CARD. MARTINELLI, Prefect. FR. HIERONYMUS PIUS SACCHERI, Order of Preachers, Congregation of the Secret Archives. The devotion to the Sacred Heart of Our Lord Jesus Christ, by a Father of the Society of Jesus. Decree, March 11, 1704.—This work, assigned to Father John Croiset of the Society of Jesus, is removed from the Index of prohibited books. Decree of the Sacred Office, February 4, 1887. In the place of the seal. On December 23, 1887, I, the undersigned, Magister Cursorum, testify that the aforementioned Decree was affixed and published in the City. Vincentius Benaglia, Magister Cursorum. In the preceding fascicle, on page 254, line

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19, after the word "Sodalitatibus..." the following words were inadvertently omitted, and they should be added there: "SSmi Rosarii tendere dignaretur ad Sodalitates." - benigne pariter ex-

[*Latin ed. p. 305*]

305 Letters from the Most Holy Lord Leo XIII to the Bishop of Plasencia concerning the Institute of sacred men who, setting out for America, may offer the aid of the ministry to the Italians compelled to go there by necessity. We gladly acknowledge that you have initiated a pious plan to establish an Institute of sacred men in the seat of your episcopal ministry, who, with a spirit and will, may go forth to the afflicted regions, especially of America, to offer the aid of the sacred ministry to the multitude of Italian faithful who, compelled by necessity to emigrate from their homeland, have established their homes in those regions. We, who, in the service of our Apostleship, look with particular care to the salvation of souls, and who must diligently attend to those things which pertain to it, so that the spiritual needs of the faithful may be provided for, consider your pious plan, Venerable Brother, to be useful and opportune, and we are most grateful for the charity and zeal of those who, guided by the spirit of Christ, wish to dedicate themselves to this holy work. Nor do we doubt that the Venerable Brothers, the Bishops of Italy, will, for the outstanding love of religion which they possess, offer their support to this pious work, and that if any of the priests of their dioceses desire to be engaged in this ministry, their religious zeal will be fostered by their consent, and, if possible, by their entire willingness. We ask Almighty God, from whom are all holy counsels and just works, that He may look favorably upon this work, and send suitable laborers into His harvest, and We impart to you, Venerable Brother, and to all those united with you in the study of divine glory and the salvation of souls, the pledge of Our Apostolic blessing. Given at Rome, near Saint Peter, on the twenty-fifth day of November, in the year 1887, the tenth year of Our pontificate. LEO PP. XIII. To the Venerable Brother John, Bishop of Plasencia.

[*Latin ed. p. 306*]

308 FROM THE HOLY CONGREGATION OF THE COUNCIL OF NUCERIA, DECREE OF EXCOMMUNICATION, July 23, 1887. Session 23, Chapter 8, Concerning Reforms. Andrew Blasi, from the Diocese of Nuceria, feeling called to the ecclesiastical state, although advanced in years, having been born in the year 17, entered his diocesan seminary to pursue his studies. After approximately three years of this life, he was compelled to give his name, and thus, having changed his pursuits, and having undertaken a new military service, he was for a long time occupied with the exercises of arms. Afterwards, free, he returned to his former studies, but he did not return to his homeland. Rather, he entered the

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seminary of Tusculanum [Frascati], where, acting as prefect of students, and also dedicating himself to philosophy and theology, he was promoted to the sacred orders. Having become a priest, when his parents arrived in Rome, he also established his residence in the city; and he led an honest and tranquil life there, as prefect of boys in the college of Massimi ad Thermas; until, in the month of November of the year 1887, the Bishop of Nuceria compelled him to return to the Diocese. Having been asked during the preceding autumn holidays whether he wished to return to his homeland, he replied to the Bishop that the circumstances did not permit; and therefore, the Bishop shortly thereafter called upon him to fulfill the office of coadjutor in the parish of St. Ludus delle Ville. But other circumstances were present: for his father was at that time afflicted by a grave illness; and therefore, the priest Blasi implored the Most Holy [Father], that he would grant him permission to remain in Rome until "the circumstances should become more bearable, or until the adverse conditions, under which he was then placed, should change." SUMMARY OF THE FACTS.

[*Latin ed. p. 307*]

NUCERINA 307 The Bishop of Nucerina sent very serious letters, from which a response was issued on December 19, 1886: "The cleric must remain subject to the Bishop's mandates and submit himself obediently to him; however, the Bishop should consider whether it would be more expedient to recall the cleric to his own diocese at the end of the current academic year, taking into account the duties he performs within the college of Massimi." Knowing the dispositions and desires of the Sacred Congregation of the Council, the Bishop did not cease in his desires, but adhered to the dispositions, since, as he himself said, "necessities of souls demanded it, as testified by the continuous requests of the people and the prayers of the parish priests of the villages of St. Lucy, which were also presented to me only three days ago." Therefore, under the threat of suspension, incurring that penalty if he did not comply within 15 days, he ordered his return to the diocese. When the priest Blasi raised serious and just complaints about this matter, the Sacred Congregation of the Council, having given new letters to the Bishop, advised him not to insist, but to order the immediate return of the priest Blasi; however, granting the same request, namely, permission to remain until the end of the academic year, it was preferred to grant his consent. The Bishop responded: "The matter had reached such a point that the authority and conscience of the Bishop were being put in conflict, unless the priest Blasi immediately requested the position assigned to him." Meanwhile, the priest Blasi, who until then had been content with a temporary absence, expanded his requests and demanded excardination, presenting at the same time letters from the Vicarius generalis of Oporto and St. Rufina, in which it was stated that Emus Pitra would gladly receive

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him back into his diocese of Oporto and St. Rufina, so that he could demonstrate his regular departure from his diocese of Orense.

A SYNOPTIC DISCUSSION:

WHAT FAVORS THE PRIEST.

First, it was noted that since Andrew is not held in the diocese of Nucerina by any benefit, the theory of canonists favors him, according to which the Bishop cannot prevent such a cleric from going to another diocese.

[*Latin ed. p. 308*]

308. To the Diocese of Nuceria, the following should be assigned. Indeed, Schmalzgrueber, *Jus. eccles. univ.*, Book 1, Title: Concerning Christian Pilgrims, states: "It is commonly held that Bishops are obligated, by their own words, to grant letters of recommendation to such clerics, if they request them for the purpose of pilgrimage, or even for the change of domicile or Diocese." Layman, Chapter 1, Title number 4, similarly states: "Nor should letters of recommendation be denied by the Bishop to priests and clerics who do not hold benefices and require a residence." This opinion is also defended by Pirhing, Title: Concerning Traveling Clergy, number 3; Fagnanus, in the chapter *Admonet De renuntiatione*, number 25; Monacelli, *Formularium legale*, Volume 1, Title 4, form number 6, number 1; Reiffenstuel, Title: Concerning Non-Resident Clergy, number 9; Pignatelli, Volume 3, Consultation 56, number 3, and many others. This common teaching of the canonists appears to be confirmed by several decisions of the Sacred Congregation of the Council. Indeed, in Ariminen, on December 5, 1574, it was decreed: "A cleric who is not assigned to a specific place cannot be forcibly retained by his Bishop, so that he does not leave his Diocese and accept a parish elsewhere." And in Ferrarien, on June 12, 1704: "Such a cleric must, before going to a residence, request permission from his own Bishop, which he cannot deny." These decisions should be added to those made in Ostunen, on January 20, 1616; in Terracinen, on February 19, 1682; in Marsorum, on September 7, 1833; and most recently, in the excardination of Boiano and Thermularum, on December 12, 1885. (1) These principles, which are applicable even in the most difficult cases, when, that is, the matter concerns a cleric educated within his own Diocese and residing there, should apply even more strongly in this instance, since the priest Blasi, apart from the three years of his initial education, has always been absent from his own Diocese, and in the Tusculum Seminary, he learned the sciences, according to the strength of his abilities, not at the expense or under the care of the Diocese of Nuceria, but certainly through his own study and labor, acting as prefect

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of students. (1) See Volume XVIII, page 504.

[*Latin ed. p. 309*]

NUGERINA 30$. It is said that the priest Blasi, along with his entire family, left his homeland many years ago, and established a permanent residence in the City. Indeed, Andrew left his homeland in the year 1875, and afterwards visited it only occasionally and superficially; however, his family, according to the testimony of the local parish priest, arrived here in the year 1880. Furthermore, in these circumstances, the Constitution of Innocent XII, which begins with the words "Speculatores," seems to be relevant, wherein it is stipulated that one can acquire a domicile even by reason of residence. It makes no difference that the head of the family still possesses a small house and some small plots of land in his place of origin. As Nani states in his "De Visit." SS. LL. edit. second volume, page 166, number 90, citing the opinion of the "Honoratissimus Prax. Secr. Trib. Vic." chapter 8: "According to the opinion of the same author, the transfer of movable goods is sufficient to acquire a domicile, even if immovable property remains in the place of residence; for in this case, it is always true that the income from these immovable properties is transferred to the place of the new domicile, at least morally: for it is in the new domicile that they are consumed." However, although one might wish to maintain that none of these things can be urged in our case; therefore, the priest Blasi cannot, in all justice, request the letters of excardination and dismissal from his Bishop. Nevertheless, in such circumstances, he appears to be constituted in such a way that he does not seem entirely unreasonable to request excardination, at least by the grace and favor of his superiors. Firstly, he himself says that he does not possess the talents or the intellectual cultivation, perhaps due to an overly hasty and somewhat accelerated course of studies, which would allow him to properly undertake the burden of care and the ministry of sacramental confession. Furthermore, he has parents in Rome, whom he cannot abandon, because his parents, as priests, need his moral and material support; especially now, since the elderly father, afflicted by a stroke, has become almost incapable of work and labor.

[*Latin ed. p. 310*]

301 NUCERINA, as two physicians attest. To this, the parish priest of Saint Augustine adds, noting that the Blasi family, residing within his parish, is in a deplorable economic condition following the father's stroke. Therefore, the parish priest, considering how deserving this poor but honest family is of compassion, expresses his hope that Andrew may continue his charitable work by remaining with them. Furthermore, it is possible that the priest Blasi could bring the parents and family to the parish of delle Ville, where they could live honestly and sufficiently from the income of the parish and other resources derived from the

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family's patrimony. However, given the family's condition and the father's infirmity, the plan to transfer them from Roma to the Diocese does not seem advisable. The parents are elderly, and one of them is suffering from a serious illness; moreover, the journey to the Diocese is not short, and the new location, as reported, is situated in the mountains, at a high altitude, which would certainly be dangerous for their age and infirmities. In addition, the priest Blasi has four brothers: one of whom has already married and supports his own family through labor and industry, although he is unable to help others; another is engaged in military service; the remaining two, being younger, work in workshops in Roma, earning a meager income, but with the hope of a better future. Furthermore, the family patrimony, of which the Bishop speaks, is extremely meager and burdened with debt, and is, in fact, almost completely exhausted, as reported by the parish priest. Therefore, if the situation is considered, the priest Blasi, remaining in Roma, will be able to provide for his own needs, as well as for the needs of the family and parents; something that would not be possible if he were to return to his own resources. Nor would he be able to bring the parents with him, for other circumstances also oppose this plan, namely the distance and the harshness of the location, which would be fatal to the elderly and infirm, and the parents themselves, who rightly desire to remain in Roma, in order to care for their younger children, whom they do not wish to take away from the city.

[*Latin ed. p. 311*]

NUCERINA 311: The right of the Bishop, by which he may compel the priest Blasi to return; if, moreover, such a command, besides causing loss, would inflict a considerable, perhaps ruinous, loss upon the priest himself, as well as upon his entire family, and especially upon his infirm parent, it would seem that sufficient grounds exist, at least out of charity, if not out of justice, to grant the faculty of excardination.

FROM WHAT FAVORS THE BISHOP: It must also be considered that the Bishop of origin has a certain and positive right to recall clerics who are not incardinated in another diocese, as the councils of Chalcedon, chapter 1; of Placentia, chapter title; of Carthage, chapter 6; of Antioch, chapter 9; and others, desired, as the Fathers of Trent stated in session 23, chapter 18, concerning reforms, and the Sacred Congregation of the Council has frequently decreed, as in Amerina, July 17, 1756; in Nucerina and Todi, regarding residence and suspension, September 19, 1818; in Luceria and Todi, on the same day and year; in Rieti, January 26, 1839; and in other cases. And this, even though it concerned more serious cases, as in Rieti, cited above, where the matter concerned a priest who had obtained a parish elsewhere and yet remained, and it was established that after some time, he had relinquished the parish and had changed his residence at his own will; the Sacred Congregation approved his recall to the diocese. Also, in

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Nucerina, regarding residence and suspension, March 15, 1828, the Sacred Congregation decreed that Angelo Petri, who had deserted the diocese despite the Bishop's prohibition, had gone to Nepesina, and there had obtained possession of another parish, should be compelled to return.

However, in our case, we are dealing with a priest who, although originating from the diocese of Nucerina, and having begun his studies there in the seminary, was ordained elsewhere; he has not yet, however, obtained a proper Bishop. For he cannot obtain one by any other means, than, as it seems, and as the analogy of the matter suggests, according to the forms and methods established by the constitution *Speculatores*, that is, through familiarity, domicile, and benefit. But the priest Blasi is subject to no Bishop.

[*Latin ed. p. 312*]

312. The case of NUCERINA is such that, as yet, no benefit has accrued from it, nor has it been established anywhere that he conforms to the regulations of the Benedictine Order. For some years now, he has resided in Rome, and he has not taken an oath here to remain permanently. Therefore, it seems certain that the Ordinary could have recalled this priest of his own accord. Moreover, since he had promised, either in writing or verbally, to the Bishop that he would return, it appears that the Ordinary has grounds for action to compel the reluctant cleric to return. It might be argued, not so much on the grounds of justice as of grace, that the familial circumstances, although certainly serious, should not prevent the priest from fulfilling his duties, and from responding to his ministry and vocation, according to evangelical norms. Furthermore, in this matter, it was remiss of the Emissary Judges to determine whether piety towards parents and the duty owed to the Diocese could be reconciled. With these considerations in mind, the purpose was to clarify the question of whether the prayers of the priest Blasi should be admitted in this case. The Sacred Congregation, having considered the matter, decided to respond: Regarding the granting of dispensation from vows in the case of BERGOMEN. SOLUTION. July 23, 1887. Session 7, chapter 8, concerning Reforms. The present case was proposed on December 12, 1885, and the question was raised – whether the judgment of the Episcopal Curia… (Compendium of Facts). See, for example, Vol. VI, 498, Vol. XIV, 392, 398; where more information was collected and noted by us regarding letters of dispensation, testimonial letters, and similar matters. Also, see Vol. XVIII, 296, and 502.

[*Latin ed. p. 313*]

BERGAMO. In the matter of confirming or denying a claim in Bergamo, it was decided as follows: The debt is to be paid, using the means that the last Bishop employed, and which a modern Bishop can also use, and with this in mind. The intention was that the Bishop should use funds

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bequeathed by the Prelate Valsecchi for this purpose; furthermore, it was desired that the canon Foresti should also contribute (1). Burdened by this decision, the Bishop of Bergamo immediately petitioned for and obtained a new hearing.

DEFENSE OF THE BISHOP. The Bishop's advocate, Canon Foresti, argued that, as the heir of Bishop Aloysius Speranza, he, and indeed all, should pay the debts in question, both out of equity and out of justice. Indeed, he said, when Bishop Speranza decided to build a new church, he did not wish in any way to burden the revenues of the episcopal see, and therefore, in order to pass on some burden to his successors, he established a contract as if it were a partnership with the municipality and the people, so that each would contribute what they could, so that the church might become a monument of common piety. He himself, in fact, obligated himself primarily, while others were secondarily obligated. Now, since the municipality contributed 24,000 livres, and the people donated a large sum of 294,347 livres, it must be said that the Bishop's statement should not be considered ridiculous; rather, he intended to obligate himself to pay what would be necessary to complete the church, namely the remaining 62,000 livres, which were the debts still owed to creditors at the end of the administration. And do not say that the Bishop hoped that more abundant offerings would be received from the faithful; on the contrary, he admitted that the people were in great poverty. Indeed, if, besides the large sum of 294,347 livres, he could have hoped for anything more, he certainly would not have contracted (X). See Vol. XVIII, 473; where a more detailed account of the facts and a legal discussion were presented on both sides of the dispute.

[*Latin ed. p. 314*]

-314 BERGOMEN. A loan of 10,000 *libellae*, accompanied by a stipulation, whereby all obligations pertaining to the loan would pass to the heirs. This was confirmed in express terms by Angelus Colombelli, former Vicar General. However, when arranging matters in this way, the Bishop certainly understood that the goods of the episcopal residence were not to be given as collateral, since this is prohibited in Extravagant 1, *De reb. ecclesiae, non alienandis*. Nor could he repay his debts to his successor by any other means; indeed, a certain portion of the expenses being considered purely for pleasure. Therefore, since it is beyond dispute that the debts still outstanding correspond to expenses prescribed by him, and since it is equally certain that the Bishop did not intend, nor was able, to burden the revenues of the residence with these debts, and since he could not otherwise rely on further contributions from the faithful or the municipality to extinguish the debts, it must be concluded that he intended to satisfy these obligations with his own property, or, failing that, with property belonging to Castrum. This intention is confirmed by the fact that the

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heirs of the episcopal goods did not call his nephews, but rather a certain priest, who had no title to them; for no one is presumed to act in a way that prejudices creditors. Furthermore, this intention is confirmed by the express words that the dying Bishop addressed to the Canon of Foresti, in the presence of three other priests. Therefore, by this arrangement, the Canon of Foresti called his heir, so that he might settle the debts incurred in the construction of the church, provided that he was burdened with no other obligations. Moreover, the heir acknowledged another of these debts, namely the loan of 10,000 *libellae*; indeed, he declared this in the inventory of the inheritance. Furthermore, there appears to be no reason why the heir should acknowledge this debt, while vehemently denying others made by the same author and under the same title. Continuing, the advocate, examining the tenor of the resolution given by the Sacred Congregation, observes that it is impossible for a modern Bishop to be compelled to repay debts by using the same means as were used by the last Bishop, namely, by seeking contributions from the faithful.

[*Latin ed. p. 315*]

BERGOMEN. 315 And this impossibility, the advocate states, becomes even more evident if one considers that the mutual and due obligations arose while the Prelate was still living. For if the faithful could still have offered oblations, the debts would not have arisen. Therefore, he says, nothing remains but to apply the goods left in the inheritance of the aforementioned Caius Foresti to pay off the debts. Moreover, since the inheritance is substantial, namely 19,138 pounds, as evidenced by the declaration made to the Government, in which the heir's assets are more likely to be reduced than increased; therefore, a payment of approximately 60,000 pounds would not be excessively burdensome. From all of this, and from other arguments presented in the previous part of the case, it must be concluded, in favor of his client, that the canonical Foresti should be compelled to pay all the debts. And, in order to achieve this effectively, it is not sufficient to use the very formula of words that the Most Reverend Court used in its previous decision: because the Bishop, who best knows the character and disposition of the canonical Foresti, judges it to be entirely ineffective.

DEFENSE OF CANONICAL FORESTI. On the other hand, the advocate for the canonical Foresti maintained that no deviation should be made from the sentence issued by the Sacred Court on December 15, 1885; and to better clarify the situation, he presented the following: Bishop Speranza, in his will, had intended that the goods he possessed, and those derived from ancestral holdings, should be transferred to his nephews; while that which he had acquired as an ecclesiastical person should be transferred to the canonical Foresti. After the death of Bishop Speranza in 1879, the canonical Foresti became a creditor of the Countess Fé-Simoni for 40,000

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pounds. Meanwhile, a commission, responsible for the construction of a new temple, seized Foresti's assets in order to recover 62,000 pounds in debts, which burdened the church. But at that time, the canonical Foresti, in order to settle the aforementioned sum of 40,000 pounds with the Countess Fé, requested that the aforementioned commission petition the tribunal.

[*Latin ed. p. 316*]

316 BERGOMEN. Ecclesiastical matter, and that he had obtained an order for the sequestration of assets from Foresti, in order to recover the sum due from the aforementioned cause. The indicated letter is from Foresti himself, and the recipient, Father Steccanella, declares it to be authentic; in it, Foresti affirms that the sum of 40,000 florins was to be paid by him, according to the wishes of the Fathers of the Society of Jesus. The following events subsequently occurred, which are worth noting: after the interlocutory judgment regarding the sequestration, 28,000 florins, which were merely the remaining balance, were paid to the Countess Fè; after the payment of 12,000 florins, as previously mentioned, the Bergomense ecclesiastical tribunal condemned the heir to contribute to the construction of the new temple, according to the resources inherited; Foresti appealed to the Sacred Congregation of Councils (S. C. C.) and this tribunal overturned the sentence of the aforementioned court, as stated from the beginning. The curia, feeling itself burdened, then requested a new hearing; but it delayed for a long time, so that the case would not be heard; and in the meantime, it obtained a decree from the Sacred Congregation of Bishops and Regulars, by which the effects of the sentence issued by the S. C. C. were completely annulled. With these antecedents, the advocate, coming to argue the merits of the case, observed that the first valid argument in favor of his case was to be drawn from the aforementioned facts. For he said that, if the Episcopal curia had considered the new and particular circumstances, it would have ordered that the case be judged immediately, and would not have prolonged it from December 16, 1885, to the present day. The second argument is supported by the necessity and utility of the church being built. For the opposing party itself admits that the demolition of the old church was carried out under duress, and that all the faithful were informed with great favor of the new construction, and that a large crowd gathered for the laying of the first stone; that the new church was erected for the parish, at the request of the faithful, with the consent of the other parishes and the chapter, and also of the municipality, and that the government itself recognized the legal existence of the new parish. From all of this, he argued, it is clear that the Bishop acted for his own...

[*Latin ed. p. 317*]

BERGOMEX. 317, for the good and unity of the society which he led: and therefore, he was not to be held liable for expenses from his own resources,

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but rather the society itself should bear the costs, L 27 ff. De reb. crea., I. 1 Cod. Si adversus creditorem. This is in accordance with canon law; for the Council of Trent, in session 21, chapter 7, De reform., addressed to the Bishops: "As for parish churches... let them strive to restore and maintain those that have fallen into disrepair, from the revenues and from whatever resources they may have." From this, it can be deduced that the Ordinary has a rightful and indeed an official duty to restore and maintain churches, but not from his own personal funds. The Sacred Congregation likewise confirms this practice, inasmuch as it has never imposed upon the rectors of churches the obligation to restore and maintain them from their own resources, but rather, on the contrary, it has recognized that such an obligation belongs to the parish community. Thus, in Imola, September 5, 1783, and January 1, 1784; in Spoleto, May 20, 1824; and in Tivoli, December 15, 1827. These principles apply even more strongly to debts incurred for the construction of a church. For it is more important to build a church than to pay off certain debts. Therefore, John Charles Antonelli states in book 2, part 6, chapter 12, page 2, number 14, De iur. clericorum: "The successor is entirely bound to pay the debts contracted by his predecessor, for the necessity or benefit of the church, not indeed personally from his own patrimony, but from the revenues of that same church." And confirming this with the authority of many doctors, he adds: "Likewise, the successor is bound to pay the debts contracted by his predecessor on account of a lawsuit." Furthermore, he observes that in order for a successor to be held liable for debts contracted by his predecessor, it must be established that "the money was spent for the necessity or benefit of the Church." Moreover, it is the common opinion of men that the heir of a public official should not be condemned to pay the debts contracted by that official; but rather, those debts should be paid by the municipality or city in whose favor the money was spent. In our case, the Bishop represents the university of that place; therefore, it belongs to him to have the right and the duty to handle all of these matters.

[*Latin ed. p. 318*]

318 BERGAMO. Concerning the matters to be managed for the benefit and good of the community itself: see L. 2 ff., which states that whatever is done in the name of, or against, any entity, whether by name or at its expense, is done by that community. Therefore, as is stated, pastors of churches can be likened to procurators, who are entrusted by a private person to conduct private affairs. See also I. 6, n. 3 ff., concerning each entity, and chapter 9, concerning procurators. Furthermore, an act performed by a procurator is considered to be an act of the principal, according to register 72 of the law, 6: "He who acts through another is as if he acted through himself"; thus, the negligence of the procurator harms the one who entrusted him. C. 2, n. We therefore, in good conscience, state: "Administrators can-

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not be held liable in their own name for matters that were carried out in an administrative or procuratorial capacity." Rota Decis. 392, n. 36, part. 5, vol. 2, p. "2° The principal remains obligated by the act of the administrator, as if he himself had carried out the business." Decis. 432, n. 30. Therefore, since the Bishop Speranza, by reason of his pastoral office and as administrator of the Church of Bergamo, built a new church for the benefit of the faithful, it is clear that the expenses are due from the diocesan administration itself. Finally, the patron observes that the Antistite was forced to consent to the demolition of the old temple, as testified by Anghinelli himself, and that he never declared that he intended to build the church at his own expense, but rather, the contrary can be deduced from the documents. Furthermore, having stated these things, and considering the piety and concern, as well as the teaching, of the prelate Speranza, it cannot be admitted that, if he had intended to obligate himself, he would have kept it silent in his will. With these things noted, the following question was to be considered: Whether to adhere to or depart from the decisions made in this case. RESOLUTION. After discussion, the Sacred Council, on the 23rd day...

[*Latin ed. p. 319*]

319 BERGOMENSI; July 1, 1887, it was deemed advisable to respond: "That the opinion of the Episcopal Curia should be upheld and further strengthened." From which it is gathered: I. That Thomas Foresti, the heir of the Bishop, is entirely absolved from the obligation to contribute funds to the contract made by the Episcopal Commission for the construction of a new church dedicated to the Most Holy Conception; and that the entire burden has been placed upon the Ordinary of Bergamo. NUSCO: CONSTRUCTIONS ABOVE THE ORATORY. On July 23, 1887. Through a summary petition. The priest Cieri, of the parish of Castelfranco in the Diocese of Nusco, humbly explained that there exists a small chapel dedicated to the Blessed Virgin Mary of Gratiarum, adjacent to his house; and that there has long been established a small benefice there, the sole obligation of which was the celebration of one Mass on July 2nd; that this benefice, from its inception, was under the patronage of the family of Ruff of Scilla, then of the King, and is now usurped and confiscated by the State domain; and therefore, in the absence of a present rector, the oratory has remained deserted and without a caretaker. Regarding this, the petitioner requested that he be permitted to build, extending his own house, but without opening any window that would face the church. SUMMARY OF THE MATTER. A Synopsis of the Discussion. THE REQUEST FOR PERMISSION SEEMS TO BE DENIED. From Altius, Chapter C, on Servitudes, it is stated: "Indeed, the owner is not prohibited from demolishing buildings, if the house does not owe a servitude; for as the Doctors say there, 'if the house is mine, then it is mine up to heaven and hell.'" Therefore, the permission that the priest Cieri requests is a form of alienation, a violation of the freedom of the church

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and the right of the owner to build upwards.

[*Latin ed. p. 320*]

320 In Nusco, furthermore, the weight of the matter pertains to the oratory situated beneath. And if laws, as if indecent, prohibit the opening of windows and doors from private houses leading to or overlooking the church, then certainly they prohibit the construction of private dwellings above the church, as the Sacred Congregation of Councils decided in Hieracae, July 26, 1613; in Melphiten, October 2, 1626; in Neapolitana, April 13, 1616; and in Hortonen, June 11, 1555. A GRANT SEEMS ADVISABLE. But on the other hand, the matter concerns a chapel that is almost deserted; hence, the construction of a large building above it would be inconvenient and burdensome, unless it is not desired. Moreover, the petitioner requests the grant not gratuitously, but with an equitable compensation offered; furthermore, alienation, if such a request for the right to build above is considered, can certainly be made, standing as it does with the true and evident benefit of the church, as stated in chapter 7 and in *De reb. eccl. alien.* The petitioner promises: 1. to restore and decorate the chapel, and to preserve it for the worship and piety of the faithful; 2. to establish an endowment to provide a Mass to be celebrated perpetually on July 2nd of each year, for the maintenance of the sacred furnishings and the fabric of the church; 3. to hold the aforementioned chapel as public, and entirely subject to the Ordinary; 4. to deliver immediately the sum of 1,700 livres to the aforementioned Ordinary, who may use it for the same church, or for any other purpose. The Ordinary, "considering the particular circumstances, especially with regard to the small size of the chapel of *S. Maria Gratiae*, recommends prayers in all things, lest the curators of the Municipality should proceed to its demolition." With these points noted, the question arose as to what should be answered regarding the request. RESOLUTION. The Sacred Congregation, having considered the matter on July 23, 1887, decided to respond: For the grant requested, a declaration shall be issued by the episcopal curia, in which the petitioner, for himself and his heirs, obligates himself to use the rooms that he requests to build above the oratory solely for sleeping purposes.

[*Latin ed. p. 321*]

321. MONTISALTI. CONCERNING THE PAYMENT OF A PENSION. July 23, 1887. Session 21, chapter 4; Session 24, chapter 13. Concerning reforms. When the archpriest and pastor of the cathedral church of Montisalti, Aloysius Massimauri, was afflicted by a stroke, his nephew, Francis, a canon of the same church, administered the parish for approximately two years. However, since this man was negligent in his duties, the Bishop, by decree of July 4, 1883, appointed the priest Anthony Merlonghi as "vice-pastor or administrator" of the aforementioned parish, and assigned him

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a monthly pension of 40 livres, to be deducted from the revenues of the coadjutor. – There – "For he who serves at the altar ought to live from the altar; therefore, until you are joined to the ministry, we assign to you for each month the sum of 40 livres, free from all charges, which will be provided or paid by him who will subsequently administer the revenues of the archpriestric." However, the aforementioned nephew, Francis, who administered the parish property, refused from that time until the death of the archpriest to pay anything to the coadjutor, alleging that the revenues were barely sufficient for the living expenses of the beneficiary and for his daily needs due to his serious infirmity. For this reason, and for other reasons as well, namely because the nephew was squandering the parish's assets and appropriating them contrary to the laws of the Holy See, and because he refused to return the seal and a certain parish book, the Curia was obliged to pronounce judgment, and condemned the guilty nephew to the restitution of the book, the seal, and other items, and to the payment of the monthly pension, together with arrears and amounts still unpaid. In the meantime, the archpriest died approximately one year after the appointment of Anthony Merlonghi, namely, on June 20, 1884. Consequently, Anthony Merlonghi immediately became the pastor, and the parish...

COMPENDIUM OF THE FACTS. Acts, Volume XX, page 235, 21.

[*Latin ed. p. 322*]

322. The properties of Montisalto were restored to their legitimate administrator, according to the decree of the Sacred Congregation. A case was pending before the Sacred Congregation, acting as an appellate court, concerning a judgment rendered by the Curia of Montisalto against the nephew of the deceased archpriest. On January 23, 1886, the question was raised: "Whether the sentence of the episcopal curia of Montisalto should be annulled or confirmed in this case." The Most Reverend Fathers judged that: "Regarding the restitution of the parish book and seal, it should be affirmed; in the remaining matters, it is left to the discretion of the judge." Furthermore, the main point of contention, which required reconciliation, concerned the settlement of 440 or 480 livres, which had accumulated over the course of several months of pension payments. However, the Auxiliary Bishop noted that "this could not be achieved, as Merlonghi insisted on the full payment of the pension, while the archpriest's nephew was unwilling to pay anything, for the very reason that he held the archpriestal benefice, and considering, in particular, the infirmity with which his father had long suffered, it was entirely unsuitable for him to support the pension. Moreover, he added that he had not been appointed by his father as his heir, but rather his brother, Aristide, against whom, at most, Archpriest Merlonghi could bring a legal action." This Archpriest approached the aforementioned Archpriest; but he also objected to the inadequacy of the benefice, and therefore did not wish to pay anything. Consequently,

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Merlonghi appealed to the Holy See with a humble plea, concluding as follows: "It is certain in Canon Law that when the revenues of a benefice are not sufficient for both [parties], then the Bishop must provide, as far as possible; and if the Bishop cannot sufficiently provide in this way, then, by the authority of the same Bishop, the people must be compelled to provide what is necessary for the Auxiliary." Therefore, the petitioner requested that the Apostolic See, for the sake of justice and mercy, order the Bishop to do what was required in these circumstances; since the same petitioner was unable to send a messenger to receive the payment due to him for the services rendered.

[*Latin ed. p. 323*]

MONTISALTI 32 3. Rogatus de his precibus a Episcopo coadiutore, ut mentem suam aperiret, ita respondit: "1. Reditus praebendarum archipresbyteralium, postremo hoc triennio 1884-1886, libellis 1500 circa, deductis onerebus, non excesserunt; fere enim aequales fuerunt reditibus triennii praecedentis 1881-1883, quorum computationem, ut superius innui, Canonicus Massimauri sacrae Congregationi exhibuit." 2. "Licet bona praebendarum archipresbyteralium, utpote parochialis, a gubernio conservata sint in natura, et ideo distincte administrentur, tamen hodie reditus praebendarum eiusdem unum corpus efficiunt cum reliqua capitulari massa. Proinde Archipresbyter Merlonghi non integros praebendarum parochialis fructus percipit, sed tantum libellis 1000 circa, quot scilicet annua massae capitularis distributio patitur. Praeter ipsam summam et pauca incerta sibi ex muneris parochialis exercitio obvenientia, aliis proventibus non gaudet." 3. "Inficiari non potest defunctum archipresbyterum Massimauri, durante infirmitate qua triennio laboravit, pluribus indiguisse expensis, eius nobili genere praesertim inspecto." 4. "A veritate minime abest, archipresbyterum Massimauri aere alieno fuisse gravatum." 5. "Rmus meus coadiutus contendit, haeredem defuncti archipresbyteri Massimauri teneri ad solvendam archipresbytero Merlonghi, pro rata temporis quo coadiutoria perduravit, integram statutam pensionem, atque ad id cogi etiam ab eodem posse per laicum tribunal."

Disceptatio Synoptica. Tridentina synodus, sess. 24, cap. 13, de reformis, ita sanxit: "Ad haec in posterum omnes cathedrales ecclesiae, quarum reditus summam ducatorum 1000 et parochiales quae summam ducatorum 1000 secundum verum annuum valorem non excedunt, nullis pensionibus aut reservationibus fructum graventur." Quam legem sanctam et inviolatam servari semper voluit S. C. C., veluti PENSIO SOLVENDA VIDETUR.

[*Latin ed. p. 324*]

324. MONTISALTI is taken from the Asculana Parochialis of November

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24, 1781, § 11, as found in Zamboni, *Pensio*, vol. 4, *Conci.*, and is commonly known. Furthermore, since the archpriest's income is said to greatly exceed 100 ducats, indeed reaching, according to a moderate calculation, 1500 *libellae*; it would undoubtedly, with due consideration of the law, be fitting for him to willingly offer the annual pension of 480 *libellae*. Even more so, because the deceased archpriest, in violation of the law of the Holy Office, retained the administration of the parish funds and ascribed all of their fruits to himself, granting himself more than what was due, namely, 1500 *libellae* each year; while the current parish priest of Merlonghi is content with only 1000. And indeed, considering the circumstances, one might think that it would be quite burdensome, and perhaps even entirely inappropriate, to impose a pension of 480 *libellae* on a parish benefiting from 1500 *libellae*; however, in our case, a different consideration seems necessary. For first, the income of 1500 *libellae* does not represent the entirety of the parish's revenues, but only the fruits of the prebends; therefore, it must necessarily be inferred that the archpriest of Massimauri received a sum exceeding 1500 *libellae* each year, including, of course, uncertain expenses and other costs. Furthermore, the portion assigned to the coadjutor is not excessive in itself, and may even be less than what is due. For in Ferentino, in the Coadiutoria of February 8, 1744, § 4, as discussed before the Holy Office, we read: "One-third of the fruits must be assigned to the coadjutor from the parish priest's revenues, according to the decree." Finally, in this matter, it is not a question of a pension to be granted to an external cleric as a reward or subsidy, but of a pension to be paid to the coadjutor by the beneficiary. Moreover, the Tridentine Council, session 21, chapter 6, *De reform.*, grants bishops, and also those acting as delegates of the Holy See, the power to consider parish priests who are uneducated and inexperienced as "coadjutors or vicars for the time being," and to assign them a portion of the fruits for their sufficient sustenance.

[*Latin ed. p. 325*]

MONTISALTI 325 » ut signent, vel aliter providere possint, quacumque appellatione remota. » Quod autem de illiteratis et imperitis dicitur, extendi et intelligi quoque debere de parochis mente aut corpore infirmis, ipsa analogiae ratio insinuat, et una voce omnes DD. tradunt, inter quos Barbosa De off. et pot. par. p. 2 cap. 23, citare satis est. Et cohaerenter ad haec S. C. C. in Vicen. Parochi de Lussuano 30 Augusti 1766, § 9, apud Zamboni v. Parochus § 4 haec docuit: « Onus praestandi salarium coadiutoribus in ipsum parochum refunditur, ob curam habitualem ei competentem; imo parochus, speciali contractu, obligatur coadiutores suis expensis conducere, et quatenus parochi congrua non sufficiat supplementum est ab ipso populo. » At vicissim considerari oportet defunctum archipresbyterum Massimauri tam ob infirmitatem, quam ob nobilem familiae suae conditionem, plura indiguisse, pluraque expendere

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debuisse, adeo ut praebendales reditus sibi ad vitae necessitates haud suffecerunt, dum, prout Episcopus meminit, aere alieno gravatus decessit. Quapropter, ne haeredes eius ad aliquid restituendum damnentur, obstase primum videtur theoria de fructibus consumptis ex L. Certum est C. De rei vindic. ubi dicitur quod bonae fidei possessor fructus ante litis contestationem perceptos soleat cum ipsa re praestare « extantes »; unde de consumptis non tenetur rationem reddere, dummodo tamen ex iis factus non sit locupletior, ceu apud ReifFenstuel ad tit. De rest. spoliat. § 7 omnes DD. tradunt. Iamvero in themate archipresbyter Massimauri fructus praebendales non modo consumpsit, non modo ex iis ditior non evasit, sed imo ii sufficientes sibi non fuerunt, dum iis non obstantibus aere alieno se gravavit. PENSIO NON VIDETUR SOLVENDA. Nec in ancipiti ponenda videtur bona archipresbyteri fides relate ad consumptionem fructuum; dum potius dubitari non inconcinne potest, num Episcopus, stante hac insufficientia paroecialium redituum, partem ipsorum coadiutori in subsidium assignare valeret.

[*Latin ed. p. 326*]

326 MONTISALTI. For, on the one hand, it is contrary to Christian charity and justice to add affliction to the afflicted, and to diminish the goods of a parish, and thus to deprive a priest, who has spent his life in parochial ministry, of the means and comforts of sustenance. On the other hand, neither canonical jurisprudence nor the necessities of the case require that provision for the support of a coadjutor be made solely through this one means, namely, by sharing the parish income. Indeed, the Sacred Congregation, in a rescript of June 1, 1762, addressed to the Bishop of Castel, § 7, cited by Zamboni in *Parochus*, § 4, volume 4, taught that ”whenever the parish revenues are not sufficient for the parish priest, the coadjutor’s salary must be provided by the Bishop, and supplemented by the parishioners.” This opinion is, as has been reported, held by the very priest in question, Merlonghi. And it is also suggested by two other circumstances, perhaps worthy of consideration, namely: 1. that the deceased archpriest Massimauri left to his coadjutor certain items of clothing and other extraordinary benefits, from which the coadjutor seems to have received some compensation, so that it would appear that he and his heirs should not be further troubled in this matter; 2. that since the heirs of Massimauri refuse to grant the requested pension, unless perhaps they are compelled to do so by a civil judgment, there are only three possible courses of action: either to bring the heirs of Massimauri to justice, or to reject the priest Merlonghi’s request for the payment of the pension, or finally, to find some other extraordinary way to assist him. Indeed, the first course does not seem advisable, not only because of the uncertainty of the litigation, but also in order not to bring the parish’s status into any disrepute; the second course would perhaps be contrary to justice, for surely a worker is worthy of his wages;

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therefore, only the third course remains. With these considerations in mind, the question of how to provide for the case in question has been examined. RESOLUTION. After discussion by the Sacred Congregation on the 23rd.

[*Latin ed. p. 327*]

MONTE ALTO, July 27, 1837. It was decided to respond: "Affirmative: and the pension imposed by the Ordinary must be paid by the administrator of the funds, Francisco Massimauri." From the matters considered: I. Bishops have the faculty, according to Session 21, chapter 6, concerning reforms, of the Council of Trent, to appoint coadjutors to parishes, and to assign them a portion of the revenues for their sufficient sustenance, whatever the designation. II. It is permissible to impose a pension on parish churches whose revenues exceed the sum of one thousand ducats, as is clear from Session 24, chapter 13, concerning reforms, of the Council of Trent. III. In the matter of the pension's payment, the parish was indeed burdened, because at the time the pension was imposed, its revenues amounted to 1500 florins.

PATTI. MARRIAGE. July 23, 1837. Session 24, chapter 1, concerning marriage reforms.

SUMMARY OF THE CASE. In the town of Tortora, in the diocese of Patti, there lived, and still lives, the family Calcò. The father, Augustine, either through negligence, or through preoccupation with worldly matters, or through the care of other affairs, certainly neglected his paternal duties, being frequently absent from home and squandering his patrimony. Indeed, when he was entrusted with the care of his orphaned nephew, (the son of his brother), named Anthony Calcò, Augustine feared that he too would dissipate his patrimony. At the same time, the head of the family, Seraphina Armeli, to the best of her ability, was caring for her daughters and her nephew; but not entirely without fault. For one of her daughters, Rosaria, having been captivated by love for a certain cousin, Rosarium Miraglia-Faeiano, to whom she was indebted, had decided to marry him.

[*Latin ed. p. 328*]

328. PACT. But the mother insisted that she should rather go to her other nephew, Antoninus Calcò, who was living at home, and give him her hand in marriage, especially for this reason, so that her husband, Augustine, would not be brought to trial by the action of tutela, due to the damages caused to the ward's patrimony. But the daughter, disagreeing with her mother, caused discord and strife, which were neither slight nor few, between mother and daughter for a long time. During this time, Rosaria committed a fault, and it was discovered that she was pregnant with the child of her lover, Rosarius Miraglia-Faciano. Then the mother insisted more urgently on her daughter marrying Antoninus Calcò, in order to conceal her shame; and the daughter, either by force, or by the terror of infamy,

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or by persuasion, finally yielded. Therefore, Rosaria and Antoninus, on the morning of January 27, 1871, suddenly and unexpectedly entered the canonical house, accompanied by the mother up to the door, and stood before the parish priest, declaring their intention. What then happened is narrated by Antoninus himself: the parish priest rebuked the betrothed; nevertheless, after their prayers and explanations, he finally yielded, and sent for two men to act as witnesses for the sacrament. Meanwhile, there was some disagreement with the parish priest regarding the man's name. But when Rosaria herself cleverly said that he was not her nephew, but was named Martin, and was one of her relatives, the archpriest hesitated, and, when the witnesses had arrived, after giving the mutual consent, he performed the clandestine marriage, and signed in the parish register the names of the spouses, as they had asserted. However, it was noted that the sacramental witnesses, when heard in the process, testified that they did not know Rosaria and Antoninus at that time. A few days later, the parish priest discovered the fraud, and therefore he notified the betrothed of the separation, and noted in the marriage register that there was no marriage, due to the impediment of the second degree of consanguinity between the contracting parties. In the meantime, Rosaria returned to her father's house with Antoninus, and stayed with him there for a few days.

[*Latin ed. p. 329*]

CHAPTER 329. But after the parson's warning, and when Rosaria seemed almost to have succumbed to her passion, and this, it is suspected, happened because she had been diverted from her original love: Antoninus is expelled from the city and from his family. Rosaria returns to her lover, Rosarius Miraglia, and after a short time, she is civilly married to him. However, after two years, Antoninus Calcò himself entered into a civil union with another woman, Rosae Conti, and from that time until the present, all have persevered in their way and in sin. However, in these last years, agitated by the goads of conscience, they first appealed to the Bishop, and through the Bishop, to the Holy See. Therefore, the Sacred Congregation ordered on January 23, 1885, that a process be carried out by the Bishop according to the canonical form: and this was carried out in the very town of Tortorici by the Archpriest Parasiliti, with the assistance of a priest delegated to defend the marriage. Rosaria was heard, as well as her mother and father, Antoninus, and other witnesses; but Rosarius Miraglia, although summoned and notified, did not appear. Therefore, after this process was held, and after the Most Reverend [Bishop] heard the case, and since the cause was to be treated economically, because all the petitioners are suffering from poverty, the opinions of the consultants and the observations of the defender of the marriage were written down; of which we give here a synopsis.

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SYNOPTIC DISCUSSION

OPINION OF THE CANONIST. It is certain that, for a marriage to be validly contracted, free consent is required; so that, if this is lacking, the marriage cannot stand; Sánchez, book II, dispute 35, paragraph 3, "marriage is least of all if consent is feigned and given with the mouth... it follows that it is necessary that both contracting parties be of sound mind; if, therefore, at least one of the contracting parties is demented at the time of the contract, the marriage does not exist." Furthermore, since witnesses testify that Rosaria was affected by mental alterations before and after the celebration of the marriage, nothing prevents it from being maintained that she was also in the same state at the time when the marriage was contracted.

[*Latin ed. p. 330*]

330. PACTEN. This is more clearly deduced from the testimonies of the actress, her mother, and her sister; who, together with the actress herself, petitioned the parish priest to celebrate the marriage. It must also be noted that the cause of the alleged dementia was love, by which she was afflicted towards Rosarium Miraglia, and with which she ardently desired to enter into marriage. She had relations with him, and conceived a child, and for this same reason, she was considering marriage with Antonino, but only ceased to do so due to threats and beatings from her mother. Therefore, from the aforementioned statements and those proven by witnesses, it is clear that there was no marriage, due to the absence of consent. Furthermore, that the consent of such a woman was not free and voluntary, but rather was obtained by force and fear, can be proven from the testimonies of her relatives; as Bosius, *Moralis Philosophia*, book 12, section 22, number 344, states: "Since fear is difficult to prove, because it is concealed and inflicted within the walls of the home; therefore, not only are relatives and household members admitted as witnesses, but greater credence is given to them." The actress, her mother, her father, her sister, and other sworn witnesses testified regarding the force and coercion. From their testimonies, it is clearly evident that the fear was grave and relative to a constant man; and therefore, the woman's consent was coerced. It seems certain that this marriage was not ratified by subsequent intercourse; for first, it is not certain whether intercourse actually took place, and to the extent that it did occur, it certainly did not occur with marital affection, because it could not have been spontaneous, since fear still persisted in the daughter, who was under the authority of her mother. An impediment of consanguinity existed between the supposed spouses, as deduced from the baptism of both, and from the testimonies of witnesses. That this impediment of consanguinity invalidates marriage up to the fourth degree is established in the Decree of Gregory, book 4, on common and affinal relationships, title 14, chapter 8. However, it is not established that this impediment was

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dispensed from by the Church, nor through a secret dispensation, since the impediment is not secret, but public; and consequently, the dispensation should have been public and known to all, in order to remove scandal.

[*Latin ed. p. 331*]

SECTION 331. Since it is clear from what has been said that the consent given by Rosaria in the celebration of the marriage was not sufficient, because she was not of sound mind; it was not free and voluntary, but was obtained by force and fear; and that there exists between Anthony and Rosaria an impediment of consanguinity in the second degree of collateral line; it follows that the marriage in question is null by three grounds. OPINION OF THE THEOLOGIAN. The Consultor asks whether the marriage can be considered null by reason of the impediment of consanguinity. He believes that it should be affirmed, since the parish registers and the testimonies of relatives demonstrate this; and there is no papal dispensation. However, from the parish registers, without any suspicion of fraud, it is clear that the presumed spouses are related to each other in the second degree of collateral line, and that there was no papal dispensation. This is confirmed by the relatives of the spouses, who, in proving the impediment of consanguinity, are of the greatest weight, as is commonly held by doctors. The parents and sister of Rosaria also testify to this. The absence of a papal dispensation is proven, both by the judicial confession of one of the spouses, and extrajudicially by witnesses, with the exception of the older ones, namely, the Parish Priest and the Episcopal Curia. Therefore, in this matter, the marriage is null and void by reason of the impediment of consanguinity. It is not necessary to seek an apostolic dispensation to contract the marriage; for there are no just grounds for repairing any damage to the integrity of the woman, who, according to the testimony of many, was already pregnant by another man. And therefore, from what has been said, it appears that it is not advisable to seek an apostolic dispensation to re-establish the marriage, but rather that the presumed spouses should be left in their freedom. This is confirmed by the sworn dissent of both parties from obtaining such a dispensation, by the scandal that must be repaired, and by the imminent danger of a violent mania suffered by Rosaria.

[*Latin ed. p. 332*]

332. PACTEN. By averting [from it]. Truly, the scandal would be repaired by releasing those who are bound by the marriage contract, so that each may marry whomever he wishes, and may abandon the concubinage in which he has lived for many years. OBSERVATIONS OF THE DEFENDER OF MARRIAGE. Rosaria Calcò, according to the defender, impugned the marriage entered into between herself and Antoninus Calcò with four different types of arguments; for she claimed first that she had consented to the marriage under duress; second,

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that she had not been of sound mind; third, that the marriage had not been perfected by marital acts; and finally, that the impediment of consanguinity hindered its validity. Regarding the claim of duress, the defender observed: although it may be conceded that Rosaria did not exhibit love for Antoninus before becoming pregnant, nevertheless, she descended into Antoninus's embrace with a heavy burden in her womb, being joyful and festive. For Rosaria Miraglia, from whom she conceived, did not think to conceal her shame, but abandoned her, as the sister of the bride said. Furthermore, her mother, who had instilled fear in her, although she accompanied Rosaria and Antoninus to the house of the Parish Priest, hurrying towards the marriage, did not even enter; so that the young people stood before the Parish Priest, the mother, the father, the sister, and all others absent. Indeed, it is clear from the testimony of Antoninus that she was not compelled, but rather, in some way, compelled Antoninus; whom she detained when the Parish Priest ordered him to summon witnesses to enter into the marriage. The woman did not allow Rosaria to go to call the witnesses, fearing that she would return, caught in this opportunity. Furthermore, this very woman, not only was she concerned that Antoninus would flee, but she also concealed the name and surname of Antoninus from the Parish Priest, so that he would not think that Rosaria and Antoninus were born of the same blood. Moreover, Rosaria objected that she had suffered delusions, so that, she claims, she was not of sound mind at the moment in which she contracted the marriage. Perhaps the woman suffered delusions, but in this way: Rosaria Miraglia immediately left Rosaria upon her becoming pregnant; Antoninus Calcò, however, consented to Rosaria's marriage after an increase in her dowry was offered to him, which happened.

[*Latin ed. p. 333*]

CASE 333. Rosaria already carried a child with advanced gestation. Consequently, it is not surprising that Rosaria, during the intervening months, namely between the aforementioned flight of Rosaria and the acceptance of Antoninus, suffered from delusions; for, abandoned by all, she did not know to whom she should attribute the ripening fruit. However, the defender argues, and if this is conceded, that Rosaria, after Antoninus had departed, endured so many and such great hardships that she was subjected to delusions; and that she was delirious during the period in which she could not yet hope to marry Antoninus. But from this it does not follow that she was not of sound mind during the entire time in which Antoninus showed himself prepared to bear the shame of her. Regarding the asserted impediment of consanguinity, the Consultant stated that the testimony of the seventh witness has no weight whatsoever; firstly, because it is incomplete. The complete testimony of relatives on the man's side is lacking. Secondly, in such matters, not witnesses but authentic documents

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are primarily considered. Nor do the entries in the parish register, when brought forward, acquire the force of an authentic document. For, in the first place, parish registers were to be inspected by the judge and the validity of the sacraments ascertained. But it is not permissible to maintain the impediment of consanguinity, or the lack of consummation of the marriage, or delusions, or fear, when the process is so riddled with flaws that it must be considered entirely invalid. And therefore, it is not established that the marriage is null and void in this case; or, a new process should be initiated, the defender of the marriage opined. With the foregoing premises, the purpose was to resolve the question: Whether it is established that the marriage is null and void in this case. RESOLUTION. The Sacred Congregation, after discussing the matter on July 2, 1887, decided to respond: Affirmative.

[*Latin ed. p. 334*]

334 MILAN. BENEFICIAL. July 23, 1887. Through a summary of petitions. A SUMMARY OF THE FACTS. The Prelate of Milan reported to the Holy See that in the parish of Mariano, with a population of 500, there exists a benefice with the duty of providing spiritual care, founded by the Most Reverend Cardinal Frederick Borromeo, and which has been vacant since 1876. The reason for this vacancy is that the income of the benefice is too meager: indeed, it consists of public taxes, tithes, and agricultural levies, amounting to 300 annual *libellae*, from which 60 *libellae* must be deducted for taxes, leaving a remainder of 240 *libellae*. However, no one is found who wishes to accept this benefice, given the heavy expenses of the papal bulls and the investiture, as well as the succession taxes, and the subsequent obligation of providing spiritual care. Therefore, ten years have now passed, and the royal chamber, commonly known as the *oeconomatum* of vacant benefices, occupies itself with the income of such benefices, and is concerned about fulfilling its obligations. The Archbishop proposed a remedy for this problem, namely that the benefice be permanently converted into a simple manual chaplaincy, to be assigned to a removable priest at the discretion of the Ordinary, with the duty of assisting the parish priest in providing spiritual care. Through this change, the Ordinary continued, it will be possible to invest a coadjutor priest with this income, which the people need, and it will also be the case that this income will be exempt from the aforementioned expenses and taxes. A SYNOPTIC DISCUSSION. It was noted that if any change in the status of benefices is offensive, and often violates the will of the founders, it is also to be feared, in Valentano, that...

[*Latin ed. p. 335*]

MILAN. 335. Although a change of status is sought, it may be called a "benefit." But it must be considered that if the benefit is left in its present state, and remains vacant for ten years or more, it will certainly remain so in

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the future, for no one will want to undertake the burden of its care, and to perpetually bear the title, and to pay taxes, with so small a stipend. Indeed, a change of status in benefits, although undesirable, can certainly be made for a serious reason of necessity, as has been decided in similar cases by the Holy Office, e.g., in the Decrees of Fossana, Session of January 25, 1851, and Asculana, Session of July 18, 1859, through summary proceedings; and no more serious reason can be conceived than this, namely, that the benefit should perish, and be left forever deserted and vacant. This is all the more to be considered, since the requested change consists only in the benefit being permanently converted into a manual benefice; which, as Schmalzgrueber states in *De praeb.*, n. 36, and Reiffenstuel in *ib.*, n. 48, etc., can certainly be done with the approval of the Holy See; and even more so, because the essence of the benefit is not destroyed by this, for a manual benefice is not incompatible with the true benefit, as Schmalz states in chapter 1, n. 4, Pignatelli in volume 6, chapter 1, n. 5, and Garcias in *De benedic.*, page 1, chapter 1, n. 77 and following. Nor should the suppression or conversion of the benefit by the government be feared, if the requested change is made. This is what the Archbishop of Milan seeks to demonstrate, citing the civil law regarding the suppression of benefits; and he adds that this has been defined in these terms by the highest court of Cassation in Florencia, in a case between a priest of Rome, rector of the chapel of Saints James and Philip, and the administration of the demesne, held on March 15, 1869. With these considerations, the question was raised as to what should be answered to the petitions. RESOLUTION. The Sacred Congregation, having knowledge of the matter, on July 23, 1887, decided to respond: "For the sake of expediency, let it be communicated to the Holy See."

[*Latin ed. p. 336*]

336 PERGULANA NOMINATIONIS, August 20, 1887. Session 24, chapter 12, concerning reform. In the year 1885, when the Archdeaconry became vacant due to death, a controversy arose regarding the provision for the second dignity of the cathedral church of Pergulana. This benefice had been founded in the year 1745, when that church was still a collegiate church; and an annual endowment of 55 scudi was donated by the noble family Ruffini, under this condition, namely: "Firstly, that the said second dignity be reserved for the passive institution of male members and relatives of the family of the Ruffinis, and that male descendants of the Ruffinis, and those who are either clerics or presbyters, should always, and perpetually, be preferred in the granting of this same second dignity; and in their absence, those from the chapter of the aforementioned collegiate church, even from among its members, whom the aforementioned chapter canonically elects." In accordance with this clause, Francis Ruffini presented his son, Virgil, who was sixteen years old. However, the chapter, acting in accordance with

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the Apostolic Letters of Pope Pius VI and the episcopal decree of March 23, 1787, maintained that the person nominated must be a priest or cleric, who could be promoted to that order within a year; therefore, the chapter considered Virgil Ruffini's presentation to be invalid, and, considering that the right to nominate had passed to them, they elected the canon penitentiary, Francis Angelucci, to that dignity. At the insistence of Francis Ruffini, the matter was brought before the Sacred Congregation. The chapter, in its defense, stated that the benefices of this church had almost all been founded by benefactors with the condition that even simple clerics could apply for them, which, as a matter of fact, quickly caused inconvenience.

[*Latin ed. p. 337*]

In Pergola, it frequently happened that the chapter was filled with clerics who were still in minor orders. To remedy this evil, the Bishop of Gubbio, to whom Pergola was then subject, addressed a matter to His Holiness Pope Pius V, who, after consideration, issued the following decree: "Among other territories, towns, and places, there is also a town called Pergola, in which a collegiate church of St. Andrew the Apostle has long existed, whose chapter consists of three dignitaries and ten canons, of whom many do not possess the burden of the priestly character, which often turns to the detriment of the divine cult. Therefore, we decree that in said collegiate church there should always be at least eight who are actually constituted in the sacred order of the priesthood. And for this reason, the patrons of those dignities, or canonries, must nominate and present those who have been initiated in the sacred order of the priesthood, or who can be conveniently promoted to it within a year. Otherwise, their nomination shall be null and void, and utterly without force or effect; by the authority and tenor of the present decree, we enact and command; indeed, we enjoin you that from now on, you shall designate those canonries and dignities which are more worthy to be filled, in such a way that the order of the priesthood will be attached to them, and that you shall impose the burden of this upon them accordingly." The Bishop, adhering to the decree of the Holy Father, decreed that "in said collegiate church, besides the prebend of the provost, there should be archdeaconries and archpresbyterates; so that those presented to these prebends must be priests, either actually or by habit; who, however, may be promoted to the order of the priesthood within a year counted from the day of their presentation. If this is not the case, their nomination or presentation shall be considered invalid and of no value, according to the tenor of the decree of the Holy Father. And if anyone among those concerned has a different opinion regarding these prebends, we grant them a reasonable time to present evidence to the contrary." Lest anyone should claim to be ignorant of this, we order that this decree be affixed to the doors of the collegiate church and in other places in the city;

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which is recorded in the Acts, Volume XX, page CXXXV, 22.

[*Latin ed. p. 338*]

338 The PERGULANA [document] has the same value as if it had been personally notified to each individual. Indeed, no opposition to these decrees was made by the Ruffini family within the time limit prescribed by law. Moreover, from certain events involving Cardinal Mattei, who, since 1854, having brought the Pergulan chapter, already held in the cathedral, to fruition, wished to express his gratitude by increasing the endowment of the Archdeaconate, it appears that the Ruffini family recognized and accepted the condition imposed upon them. Disputation on the Synoptic Summary. WHAT IS OBJECTED TO BY THE SERAFINI FAMILY. Firstly, it was argued that the Roman Pontiff could derogate from the rights of a pious institution, just as he could with any other. Asculana, March 6, 1779, § 6, and elsewhere ibid.: because the pious dispositions of the faithful depend on the authority of the Supreme Pontiff, and are freely regulated by him. Caesenäten. Subsidiary endowment, November 29, 1788, § 7; and this is especially true in matters concerning benefices, because benefices are instituted for the life of ministers and directly for the service of divine worship; therefore, they remain under the authority of the Church and its head by their very nature. And although the Supreme Pontiff does not usually contradict conditions attached to a foundation, using his supreme power without necessity or just cause, and without hearing the patrons, nevertheless, in this matter, this objection cannot be urged against the given disposition. Firstly, it was clearly necessary to apply the remedy devised by the Holy See in order to prevent the choir of young clerics from being repeatedly filled, which would entail a clear expense for the adornment of the house of God, a detriment to divine worship, and the impossibility of performing sacred ministrations. Therefore, a just and necessary cause for derogating from the conditions of the institution existed. Moreover, the Pontifical disposition is closely in accordance with the statutes of the Tridentina Council, chapter 12, session 24, on reform. Indeed, the text begins there: "Since dignities in churches, especially in cathedrals, are..."

[*Latin ed. p. 339*]

"The ecclesiastical and canonical offices have been instituted so that those who hold them may excel in piety, be an example to others, and assist the Bishops in their work and duties; therefore, those who are called to these offices ought to be such as are able to fulfill their duties." And immediately after speaking of the dignities of vicars and archdeacons, the Fathers of Trent continue: "Concerning other dignities or positions to which no spiritual care is attached, clerics, otherwise suitable and not less than twenty-two years of age, shall be appointed." Therefore, the arrangement of the Pontiff appears entirely just and canonical. Indeed,

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at that time, the collegiate church of St. Andrew was being elevated to a cathedral, and the need to provide and safeguard against further inconvenience was becoming more pressing. Moreover, in the cited chapter 12, the law of Trent decreed as follows: "In all cathedral churches, all canonries and benefices shall have attached to them the orders of the presbyterate, diaconate, and subdiaconate. The Bishop, with the advice of the chapter, shall designate and distribute, as he sees fit, to which order each shall be assigned in the future, with the proviso that at least half of the number shall be of the presbyterate, the others being deacons or subdeacons; but where a more laudable custom prevails, and more or all are of the presbyterate, this must be observed." Let it be said that the consent of the patrons was lacking; for it was not strictly necessary. If the Pontiff, by making this provision, certainly knew that the rights of the patrons would be violated; and yet he absolutely entrusted it to the Bishop to determine the benefices that should be of the presbyterate. And the Ordinary, following the apostolic letters, issued an edict, not concerning the substance of the law, but only concerning accidental matters; namely, that the benefice was less substantial than that included in the disposition. Furthermore, the archdeaconry could not be included in this number, and therefore the family of Rußini contended that the Apostolic provision was contrary to it. However, if the consent of the patrons was not necessary to strengthen the apostolic letters, then the objection of its absence seems futile.

[*Latin ed. p. 340*]

340 PERGULANA: Moreover, this is also false, for consent, whether tacit or expressed, is considered valid. Provided that the episcopal decree, by which the right of presentation was restricted, had been promulgated and affixed to the doors, the church, and public places. Furthermore, it is entirely improbable that the arrangement, by which the more prominent families of the city were chosen, which certainly included the Canons, and which remained in effect for two months at the principal and frequently visited church of St. Andrew, would have concealed the family of Ruffini. Moreover, according to Rule 43 in VI, "he who is silent appears to consent." According to Reiffenstuel, the true meaning of this rule, and one entirely appropriate to our case, is this: "He who is silent in a favorable matter appears to consent; but he who is silent in prejudicial matters appears to consent, when he can easily prevent what is being discussed by contradicting or expressly dissenting, and no suspicion appears to the contrary." But whatever may be said about this consent inferred from silence and acquiescence, in the present case, explicit consent also seems to be present; as can be gathered from the conventions of the years 1854-55, in which Francis Ruffini agreed to the permission of the family of Ruffini to be presented, whenever his own priest was not present. Moreover, "what has

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once pleased cannot afterwards displease" from Rule 21 in VI; nor "can anyone change his mind to the detriment of another" from another rule, 33 ibid. Therefore, although one might wish to exaggerate the defect in the consent of the patron in this matter, and although one might wish to maintain that he was not present from the beginning, nevertheless, since he was subsequently present, it seems quite sufficient and more than sufficient to condemn the presumption of the plaintiff.

WHAT FAVORS THE FAMILY OF RUFFINI: But on the other hand, Francis Ruffini recalls the law of the institution, and states that for centuries, and more, no cleric in his lineage has been able to be called to the archdeaconate; and after the brief of Pius VI, it is now for the first time that the family of Ruffini can exercise its right, while the chapter has still nominated from its own ranks. And for the first time, on this occasion,

[*Latin ed. p. 341*]

PERGÜLANA 341. To the nomination made by the Ruffini family, there is opposed that apostolic disposition. But this, as is evident, would be detrimental and restrictive to their rights; and it has been declared by the Ruffini family to be unheard of, and never to have been approved by them. Therefore, it has produced absolutely no effect. Moreover, the provision in question was not notified to those personally interested, which ought to have been done according to law, since it is not sufficient that this provision was affixed to the doors of the Church or in other places. Furthermore, it is certain, and it is not necessary to cite authorities to demonstrate it, that the Holy Father does not usually infringe upon the rights of third parties, nor contradict the institutions and laws of patrons, unless with the consent of the patrons. And this consent should not be sought through a public edict; for this seems to be contrary to the nature of the thing: since public laws are promulgated by affixing them, while consent, being a private matter, is sought privately and individually. Furthermore, the aforementioned advocate observes that the founder, in establishing this provision, had two objectives before him: first, to grant the Chapter the dignity that was lacking; second, to establish a sacred patrimony, so that the Ruffini family, pressed by poverty over time, might not be able to dispose of it, should someone from their family desire to be promoted to the sacred orders. Finally, the advocate invokes the cause of piety, saying: that his noble and numerous family, through no fault of their own, is suffering great poverty. Therefore, he demands that the nomination of his son be accepted, if not for the sake of justice, then at least for the sake of charity and compassion. The Bishop, transmitting the arguments of both sides, favors the rights of the Chapter, and believes that the nomination should be confirmed, and he makes no mention of the poverty of Francis Ruffini. With these things noted, the

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presumption must be dispelled.

[*Latin ed. p. 342*]

342 PEROULANA. A question is raised concerning whether the names of the cleric Virgilius Ruffini, or rather, the canon Francis Angelucci, should be admitted in this case. RESOLUTION. After examining the matter, the Sacred Congregation, on August 20, 1887, decided to respond: Negatively to the first part; affirmatively to the second. FROM WHICH THE FOLLOWING ARE DEDUCED: I. The pious dispositions of the faithful, and especially endowments, directly established for the support of the clergy and for the service of divine worship, are, by their very nature, dependent on the supreme authority of the Pontiff, and can be regulated by Him. II. Therefore, a just and necessary reason is provided for derogating from the institutions and the pious will of testators, when the addition of a chapter to the Cathedral or Collegiate Church; whose choir is repeatedly filled with young clerics to the detriment of the dignity of the House of God, to the detriment of divine worship, and with the impossibility of performing sacred ministrations. III. Such a derogation is most consonant with the Council of Trent, Session 24, chapter 12, concerning reforms, from which it is prescribed that those holding dignities in Cathedrals should be such as can assist the Bishops in their work and office, and who can properly fulfill their own duties: while other dignities, or those who, without any care for souls, are clerics not less than 22 years of age. IV. The Roman Pontiff can sometimes derogate from rights acquired by third parties, and does not require the consent of patrons, especially if this derogation appears to be necessary for the dignity of the House of God, or for divine worship, or for the supreme salvation of souls. V. It appears that the institutions in question have been properly derogated from by the supreme authority of the Church, from the fact that all the benefices of that Church were founded in such a way that even simple clerics could be appointed to them: and therefore it often happened that the chapter was filled with clerics who were still very young.

[*Latin ed. p. 343*]

343 VENTIMIGLIA. DISPENSATION FROM IRREGULARITY. August 20, 1887. By summary petition. SUMMARY OF FACTS. The Reverend Francis Gandulfi, a missionary from the Congregation of St. Vincent de Paul, originally from the Diocese of Ventimiglia, where he still resides, narrates in a petition that a few months ago, while handling a firearm, commonly a rifle, the weapon broke, and he was so seriously wounded in his left hand that, according to the advice of physicians, it had to be amputated. Consequently, he has become irregular. He prays that he be dispensed from this impediment, as he is sixty years old, and has spent his life in the sacred ministry in various Dioceses of Italy; and he hopes that this will

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merit him grace. The Master of Ceremonies, before whom the petitioner performed a trial of the Mass, reported: that the petitioner can approach the Altar, with his right hand holding the chalice, placing his left hand, which is artificial, above it; that during the celebration of the Mass, the petitioner can pronounce the words; however, with regard to certain actions, such as to take, elevate, and break the Holy Host, he can do so with only one hand, and then leave it in the paten, placed over the corporal, while reciting "Domine non sum dignus"; and that he can complete the offering and the elevation of the chalice, fulfilling the sacred rite by accompanying the artificial hand with his foot against the base of the chalice. Therefore, the Master of Ceremonies concluded that the priest petitioner can validly celebrate the Holy Sacrifice, with due decency and reverence, provided that he uses diligence and tranquility in performing the ceremonies; and that the petitioner's piety will be evident. The Bishop commended the petitioner to the benevolence of the Most Holy and Sacred Congregation.

[*Latin ed. p. 344*]

344. WHETHER A DISPENSATION SHOULD BE GRANTED. It appears that, in some cases, a dispensation should be denied. Indeed, the matter of a dispensation pertains to justice; for in chapter 1, 2, and 6 of *De Corpore Vitiato*, and in chapter *Ex Parte De Clericis Aegrotis*, it is expressly stated and confirmed that one who suffers from a bodily defect which prevents him from ministering in the sacred offices with honor and decency, or without the admiration of the people, should not be admitted to the exercise of the sacred order. However, the Holy Office has not always been accustomed to grant dispensations in similar cases. Thus, as some recall, in Milan, on April 18, 1863, a dispensation was denied to Father Decio, to whom the left hand had been amputated due to illness, with the response: "It is not advisable." Similarly, in Avellino, on July 7 and 28, 1770, in Aosta, on December 19, 1772, and in Fermo, on May 24 and June 14, 1823, which cases are cited in the aforementioned Milan. A DISPENSATION APPEARS TO BE WARRANTED. Conversely, it is evident that, in other cases, the Holy Office has granted a dispensation, as appears from Litomerice, on September 24 and December 17, 1864, where the case concerned a priest who had lost his left hand due to the explosion of a fiery projectile; the Holy Office responded: "Provided that the necessity of the people exists, and that he celebrates with the assistance of another priest or deacon, it is left to the judgment of the Bishop, etc." And similarly, from Brixen, on September 12, 1868, in Tortona, on June 18 and December 19, 1868, from Udine, on July 8, 1865, and March 10, 1866, and in other cases listed above. Indeed, it is known that, even in more difficult cases, the Holy Office has sometimes shown a benevolent attitude, as, for example, in Palermo, where to a sixty-year-old priest, to whom, in order to save his life, the left arm had been amputated up to the elbow due

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to a mortal wound, the Holy Office responded: "Considering, etc., it is to be consulted with the Most Reverend [Bishop] regarding the granting of a dispensation and rehabilitation, with the condition that he celebrate in a private oratory with golden or silver fingers, which, after the sacrifice, are to be reverently replaced."

[*Latin ed. p. 345*]

"In the case of those who are over seventy-five years of age, and furthermore, an examination must be renewed each year before the Master of Ceremonies... so that if the celebrant fails in anything, he will relapse into irregularity, and will be obliged to appeal again to the Holy Congregation." Nor was it otherwise, as in Bergom, on November 27, 1858, when it was answered to the celebrant: "Provided that he celebrates in a private oratory, and, if it seems good to the Bishop, with the assistance of another priest or deacon, for the granting of a dispensation regarding the aforementioned irregularity and for the restoration to the holy sacrifice of the Mass, with a pretended manipulation over the arm, and with the words 'with your Holy...' " And similarly, in a decree from Linares, on July 8, 1865, and in Samogitien, or Cadurcen, on September 22, 1866, and in others. In all of these, it seems that the Holy Congregation has primarily considered whether the celebration could be carried out without the admiration of the people, and without a considerable injury to the sacred ceremonies; and that, according to the opinion of the Master of Ceremonies, in a safe manner, it has usually granted the dispensation, especially if the recommendation of the Ordinary was present, if the merits of the unfortunate priest suggested it, and most of all if the necessity of the people demanded it. With these things in mind, the question was asked as to how the prayers should be dismissed. RESOLUTION. The Sacred Congregation of the Council, after discussion on August 20, 1887, decided to respond: "Provided that the celebrant celebrates as the Bishop in the Lord deems fitting, in a private oratory, and with the assistance of another priest or deacon, for the granting of a dispensation and for the restoration to the holy sacrifice of the Mass, at the discretion and conscience of the Bishop, with the words 'with your Holy...'"

[*Latin ed. p. 346*]

346 FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS OF ROMA, also known as TUSCULANA, concerning legal matters, dated June 10, 1887. Near the city of Tusculum, a monastery of the Capuchin Fathers has existed since the year 1575, which was brought into a better form by the Supreme Pontiff Gregory XIII. This monastery has, from ancient times, been separated from the neighboring Villa Rufinella by a wall; but the Capuchin Fathers were accustomed to pass through this villa, by means of a gate opened in the wall. In the year 1740, a certain

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Marchese Sacchetti, who was the owner of the villa, attempted to obstruct and prevent this passage by blocking the gate; but the General Auditor of the Apostolic Chamber decreed that the right of passage, as a matter of established custom, should be maintained. With the passage of time, the aforementioned villa came into the possession of the Fathers of the Society of Jesus, who, having rebuilt the wall, entered into an agreement with the Capuchins on October 11, 1743, by a solemn instrument, stipulating that the Religious Capuchins would no longer have the right to pass through the aforementioned villa; it was, however, stipulated that it should appear as if they were passing through it. Following the law of suppression under the Gallic cock, the villa passed from the hands of Lucien Bonaparte to Maria Christina, Queen of Sardinia, who granted the Capuchins the right to pass through the aforementioned villa, and she restored it to the Fathers of the Society of Jesus on the condition that, in the event of suppression, Victor Emmanuel would inherit it; as, in fact, happened in the year 1849. Finally, the noble family of Lancellotti, by a contract of sale and purchase entered into on December 30, 1871, acquired the villa and possessed it free and clear of any encumbrance.

[*Latin ed. p. 347*]

ROME OR TUSCULUM 347, free from tolls or burdens, except for certain customary charges for alms, which were paid. Perhaps a noblewoman, the wife of Prince Lancellotti, attached this clause, in order to prevent the Capuchin friars from passing through her property; she closed the gate, through which access was granted to the property, on July 10, 1880. Alarmed by this development, the Capuchin Fathers appealed to a noble family, requesting that the matter be restored to its previous state. Friendly discussions and negotiations began; when these failed, the noble family, having offered a small sum, appealed to the Most Holy Prince, who referred the dispute to the Sacred Congregation of Bishops and Regular Canons. A Synopsis of the Dispute. Defense of the Noblewoman Lancellotti. The defender of the noblewoman L. first pointed out that servitude, as a bond of property, is inherently objectionable, and must be imposed only for a purpose or necessity, or at least for some benefit; and this is argued from chapter 15, paragraph 1, of the Decrees, where Pomponius says: "Whenever there are no servitudes concerning people or properties, because the neighbors have no interest, it is not valid." To this, the Glossa adds: "As the apple is 7 of the servitudes, so it applies to the words 'not possible'." And the reason is, because (servitude) must be imposed for necessity, not for pleasure. Furthermore, the claim of necessity or benefit is refuted by the fact that the Capuchin Fathers can travel to higher towns or to perform priestly duties, or to collect alms, by passing through a nearby public road, which is more convenient and leads to the same higher towns. Nor does it matter that the public road is

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somewhat longer, because a greater distance of 754 paces is a matter of little importance; and because, as taught by the Holy Rota of the City of Castellarne in the legal judgment concerning the right of passage of April 23, 1738, number 11, 12, a greater length does not constitute a valid reason for establishing a servitude of passage on a free property.

[*Latin ed. p. 348*]

348 The case concerning ROMANA, or TUSCULANA, is to be considered, where, when requested, it is permissible to have a way through, by another road, although it may be longer and less convenient. The decision was made by the chorus of 400 voices, with Marco, and the ROMANA Manutentionis, regarding the good right, on February 1, 1836, number 11, voices Corsi. It is not permissible to grant the Capuchins the right of passage through the property, because a true right of way, without a necessary cause, cannot be legally established. Since, therefore, it is established by fact that the cause of necessity is lacking in the matter, it is said that the alleged prescription can never be verified. But, furthermore, it is stated that the nature of the alleged servitude is ambiguous in the case, because, while, on the one hand, the Religious claim that a door in the dividing wall existed, open for their use and convenience; on the other hand, facts demonstrate the contrary, namely that the aforementioned door was for the use and convenience of the Duchess of Chablais and the royal family of Piedmont, and that, since it was not subject to the law of enclosure, it led directly from the villa to the Capuchin church, without the need to pass through a public road. It is in vain to appeal to the fact of a mutual passage, because, since the prince's wife could not access the Religious's convent through their garden, and therefore could not use the passage as a servitude, because she is subject to the law of enclosure, it follows that neither the Religious are obliged to use the right of way through the Rufinella villa, according to the law regarding the respect of life. Therefore, the right of way can no longer be maintained, neither on the part of the Lancellotti family, nor on the part of the Religious. After these considerations, addressing the question more deeply, it is observed that urgent and conclusive proofs are required to establish a servitude, and that, if these are lacking, the freedom of the property is presumed. Andreol. controv. for. vol. 1 contr. 178 n. 2. S. Rota of CIVITAS CASTELLANAE, concerning the right of way, April 25, 1728, voices Mellini, number 2 and following. Such proofs consist in title and prescription. Regarding the former, the Religious have not presented any arguments.

[*Latin ed. p. 349*]

ROME OR TUSCANY 349, from which it is shown that the title for the property is military. Regarding the second claim, a prescription of almost sixty years is invoked by them; but their arguments do not prove anything,

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because they consist either of the depositions of a few religious individuals who testify in their favor, or of the declarations of two witnesses who testify to a prescription of four years, before the gate of Genoa was closed. But even if the Religious were truly able to invoke a prescription of a very long time, this would be of no benefit to them; because the servitude ceased to exist in the year 1866, when, indeed, their garden was purchased by Luciano Bonaparte. Indeed, it is established by law that any servitude can be extinguished by confusion, when the same person becomes the owner of both the dominant and the servient estate (Sabell. Summa, etc., § Servitus, n. 17. Voet. ad Pand. lib. 5, tit. 6, num. 2, "nemini res sua servire potest": I. 1 ff. h. t. iunci. L uti frui ff. si usu fr. petatur etc.). Nor could the servitude have been revived by the donation of the garden by the Duchess of Chablais, made in favor of the Religious; because, for a servitude to be revived, an express act is required (Paulus fr. D. (82) de servit. strb. praed. Voet ad Pand. lib. 8, tit. 6, num. 3). Indeed, in the aforementioned donation by the Duchess of Chablais, neither the word nor the slightest trace of the passage of this servitude can be found. Likewise, it could not be derived from the existence of a gate opened in the dividing wall; for it is testified by the knight Aubert, who was the administrator of the villa about forty years ago, that the gate was opened not for the use of the Religious, but for the convenience of the lord's villa. This is further confirmed by P. Victorio d'Alatri, who testified that the aforementioned gate was renovated and made more suitable and convenient by Queen Maria Cristina of Sardinia. Furthermore, it is established by Pomponius, fr. 11 pr. and % 1 d. 84, that the expenses of maintenance should be paid by the one who benefits from the servitude, and not by the one who is obliged to grant it. In vain do the Religious claim that the passage of the servitude, at least by ordinary prescription, belongs to them.

[*Latin ed. p. 350*]

350 Of ROMA, or Tusculum, because the matter concerns servitudes, which, since they require an action of a man, which cannot be continuous by its very nature, are called discontinuous; Andreol. *Controversiae*, vol. 1, controversy 178, n. 3. Indeed, to acquire discontinuous servitudes, ordinary prescription is not sufficient, but rather an immemorial, or at least a centennial, prescription is required, as the Doctors teach; Andreol. *Controversiae*, vol. 1, controversy 178, n. 5; Gratian, *Decretum*, book 6, chapter 681, n. 36; De Luca, *Disputationes*, book 35, on servitudes, n. 18; Panimoli, *Decisiones*, year 2, n. 3; Sabell. *Summa*, vol. 4, resolution 7, n. 3 and following; S. Rota, *Decisiones*, 949, *Corpus Malines*, n. 23; *Decisiones*, 2, n. 6, on servitudes; *Corpus Falconieri*, *Decisiones*, 400, n. 10; *Corpus Marco*, *Decisiones*, 7, n. 9; Isoard, *In Romana Manutionis*, on the right of the day, June 3, 1837, *Corpus Corsi*, n. 8, and elsewhere. If, however, the Holy Rota has taught that ordinary prescription is sufficient, this was only

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admitted as an exception, and in a case where the user could allege a title. And in this case, it is admitted that it can be so, as Andreol. *Controversiae*, vol. 1, controversy 178, n. 6 and following; Gratian, *Decretum*, book 6, chapter 681, n. 39; De Luca, *Disputationes*, book 136, on royal matters, n. 2. Since, therefore, Religious cannot allege any title, they wrongly appeal to a prescription of 30 years. On the contrary, from the depositions of all the witnesses, it is clear that whenever the Religious passed through the villa of Rufinella, they did so with the tolerance of the owners of the villa, not with the intention of exercising their own right. This, indeed, they ought to demonstrate, as Gelsus teaches, book 7, title *De itinere actuque privato*. Gratian, *Decretum*, book 6, chapter 559, n. 11; Sabell. *Summa*, section *Servitus*, n. 5. Furthermore, to establish a servitude, it is argued that the knowledge and consent of the owner are required, as stated by Sabell. *Summa*, section *Servitus*, n. 4. To this, Gratian objects, *Decretum*, book 6, chapter 560, n. 30; Rota, *Decisiones*, 104, n. 10; *Decisiones*, 398, n. 7; and *Decisiones*, 416, n. 13, part 4; Recent. However, such knowledge and consent are excluded by the fact that the owners lived in Rufinella for only a short time and at intervals, and by the docu-

[*Latin ed. p. 351*]

From a document from Tuscany, it is clear that Queen Maria Christina did not return to the aforementioned property after the year 1840; therefore, from that year until 1871, when it was sold, the property remained continuously occupied. If a supposed right of way had been established by any of the occupants, this would be null and void, because one cannot establish or acquire a right of way over another's property, *Corpus Juris Civilis, Digesta, Lib. 8, De Communibus Praediorum, tit. 1*. The occupant does not acquire the right of way for himself, but for the owner. Nor does the occupant's silence, or even his collusion with the user, harm the owner, if the owner, as in this case, never accesses the property; and therefore, whatever the occupant has done, the owner is completely unaware of it, Gratian, *Decretum*, Distinction 6, title 81, number 32. And it is even less likely to cause harm in this case, because from the actions of the owners, it is clear that they never granted the alleged right of way. And the owner demonstrates this by the fact that in the year 1847, the Fathers of the Society of Jesus took over the property; and they were given the key and locks to the gate. This certainly would not have happened if a right of way through the property had been established with the favor of the Capuchins. Thirdly, the owner points out that he who alleges a prescriptive right must prove that the use was granted by law, not by a title of familiarity or friendship, which must always be presumed unless the contrary is proven, Paul, *D. 41, fr. 41*. Sabellicus, *Summa*, etc., § Servitudes, number 5. Finally, even if it were admitted that the right of way belonged to the Religious, nevertheless, it is concluded that they have lost it in the present circumstances, because

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the gate through which they used to access the property has been closed for six years, and the owner of the property has been aware of this and has remained silent.

DEFENSE OF THE PP. CAPUCHINS. On the other hand, the PP. Capuchins' advocate maintains, with all his might, that the Religious have a right to pass and return to their convent through the property called Rufinella, through a certain gate opened for the pious use and convenience of their PP. in the dividing wall; and that they have been in quiet and peaceful possession of this right from ancient times.

[*Latin ed. p. 352*]

352 In ROMA, or in the district of Tusculum, this right was found to exist; it is demonstrated by a warning issued in the year 1740 against the Marquises Sacchetti, owners of the same villa, who attempted to obstruct this passage and to close the same gate. This right could not have been destroyed or weakened by an agreement concluded in 1743 between the Superiors of the Jesuits and the Capuchins, as if the Superiors of the Capuchins had sent a notification of this right through this agreement. The advocate observes that the object of such an agreement has nothing in common with what is being argued in the present case. And he states that, in fact, the Superiors of the Capuchins, even after this agreement, have always legally enjoyed the right of passage through said villa, until very recently.

However, even granting, but not conceding, that the object is the same, he adds that this agreement should be held to be of no value, because the Superiors of the Jesuits would have obtained the freedom of the villa without any grant or concession; the Superiors of the Capuchins, on the other hand, would have lost this right to their great detriment and prejudice, without receiving or retaining anything in return.

Furthermore, assuming, for the sake of argument, that the agreement of 1743 destroyed any prior title and deprived the Superiors of the Capuchins of the right of passage; nevertheless, this right was recovered by them through a subsequent title, because for a period of 144, or at least 137, years, they had continuously passed through said villa.

It is argued that the right of passage, as constituting a discontinuous and non-apparent servitude, cannot be prescribed according to law 15 ff. of title "De Servitutibus," nor according to law B and 25 ff. of title "De Usurpationibus et Usucapionibus"; for these laws, with which the institutions of Justinian § 3, book 2, title 2, "De Rebus Corporalibus et Incorporalibus," agree, pertain not to "ius dispositivum" (dispositive law), but to "ius historicum" (historical law). He argues that what Justinian stated in book 7 of the Codex Reipublicae, particularly in title 25 concerning the abolition of "nudum ius" (bare ownership), title 31 concerning the transformation of usucapion and the removal of the distinction between "res mancipi" and

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"res non mancipi," and title 33, pertains to "ius dispositivum."

[*Latin ed. p. 353*]

ROMAN or TUSCULAN, 353, concerning prescription by a long period of ten or twenty years, and title 39, concerning prescription of 30 or 40 years. These dispositions of the latest Justinianic law are asserted by Justinian himself to have been applied to SERVITUDES, and this is evident from laws 12 and 14 of the Code, title concerning Servitudes and water. Indeed, it is asserted that even before Justinian, it was established that these SERVITUDES could be acquired and lost through usage and time, as evidenced by numerous imperial rescripts and especially by law 1 of the same Code, title, where Emperor Antoninus states: "The judge... will know that the custom of a long period can take the place of a servitude." It is argued that this jurisprudence, and the doctrine of the Holy Rota, are not contrary to these legal dispositions, but rather are most in conformity with them, as can be seen from the decision *Forolivi*, dated April 20, 1820, § 9 and following, before Isoard; from *Veliterna*, dated February 17, 1826, before Tiberi; from the *Confirmatoria* of January 26, 1827, before the same; from *Romana, Manutentionis et emendationis damnorum*, dated July 5, 1833, before De Retz; and finally, from *Centumcellense*, dated March 13, 1861, before Caiani. Furthermore, it is urged from these cited decisions that, in order to prescribe a servitude by prescription, it is not necessary, as is opposed, to have a period of time considered "immemorial," or 40 years with a *colo* title, but that a simple long period of time is sufficient, namely, ten years for those present and twenty years for those absent. A servitude of passage can be acquired by long usage. The servitude of passage, through acts and ways, is prescribed by a period of ten years for those present and twenty years for those absent. Thus, the cited decision of *Veliterna* states; and this is confirmed by another decision, *Romana, Manutentionis, etc.* Even if any other title of a servitude were to be lacking, this one, the decennial prescription, would suffice, so that there would be no doubt about the established servitude, since it is well known that a servitude of passage arises from a decennial prescription among those present. And there is no exception in the body of the law relating to the servitude of passage that prescribes a period of "immemorial" time.

[*Latin ed. p. 354*]

354 ROMANA. OR TUSCULANA: The law, or a period of forty years for this purpose, is prescribed. Regarding this matter, the advocate concludes that the rule established in the Code* of Justinian, in the title concerning long-term prescription of ten or twenty years, should also be applied to this case. And the patron believes that this should be admitted all the more strongly in this case, because the Fathers Capuchin have acquired this right of passage, from a donation made to them by the Most Serene Lady Mari-

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anna, Duchess of Chablais, who was the owner of the estate; and because the Fathers Capuchin have not exercised this right by force, secretly, precariously, or in the absence of others, but openly and continuously for a very long period of time. With these and many other arguments presented, both in fact and in law, the patron of the Fathers Capuchin affirms that the proposed question should be answered in favor of the Religious, and contends that it should be so decided. With these premises established, the following point was to be considered. The question: Does a right of passage exist from the garden of the Fathers Capuchin through the estate of Rufinella, via a gate in the wall, which separates the estate from the garden? RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, having considered the matter on June 10, 1837, decided to respond: Negatively, and furthermore. I. Servitude, being a bond on property, by its very nature must be imposed for a reason, whether of necessity or at least of utility. II. A longer route does not constitute a suitable title to establish a right of passage on a free estate; therefore, it should not be granted, whenever the one requesting it has the possibility of having a passage through another route, even if it is longer and less convenient. III. The existence of a servitude should not be presumed, but must be proven by urgent and conclusive evidence, since every thing is free in its origin.

[*Latin ed. p. 355*]

ROMAN or TUSCULAN, Book 3, Chapter 5, Paragraph 355. All servitude is abolished and extinguished by prescription, when, namely, the same person becomes both the lord and the servant of the same property; because no property can serve another.

1. Once servitude has been extinguished by prescription, it cannot be revived by separation, unless it has been agreed upon in a contract that it should be reborn.

2. Servitude of passage is to be included among those called discontinuous, because the action of the person is required in it, which cannot be continuous.

3. And to establish it, it is not sufficient to have the passage for ten, twenty, or thirty years, but a time that is almost unmemorable, or a hundred years, is required.

4. In only one case can this type of servitude be established by prescription within ten, twenty, and thirty years, namely, when the one who enjoys the servitude can allege a title in the very beginning of the lawsuit.

5. The expenses of maintaining the servitude must be paid by the one who enjoys the servitude, and not by the one who grants it.

6. To establish the prescription of servitude, it is not enough to simply allege use, but it is necessary to prove that one has used the servitude by right.

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7. A lessor cannot establish a servitude of passage through the leased property; for no servitude can be imposed or acquired over the property of others.

8. Neither the silence of the lord of the property, nor his connivance with the user, is harmful, when he has never been accustomed to access the property for that purpose.

9. Simple use between relatives, or even between friends or neighbors, does not establish the prescription of servitude, but it should be presumed that it was granted by title of kinship, or familiarity, or friendship.

[*Latin ed. p. 356*]

3S6 FROM THE SACRED CONGREGATION • • »•- » A COMPENDIUM OF THE LIFE, VIRTUES, AND MIRACLES, AS WELL AS OF THE ACTS IN THE CAUSE OF CANONIZATION OF THE BLESSED JOHN BERCHMANS, CONFESSOR, SCHOLAR OF THE SOCIETY OF JESUS. John Berchmans so admirably emulated Aloysius Gonzaga and Stanislaus Kostka, that it is rightly to be wondered at, by which of the three most outstanding students the renowned Society of Jesus ought to rejoice and glory more. However, it is certain that John, in himself, manifested those virtues with a certain moderation; for he attained the highest perfection, having undertaken nothing extraordinary, nor apparently arduous. He was born in Diesthemii, in Flanders, on May 13th, in the year 1599. His parents, John and Elizabeth Van-Hove, maintained a household somewhat burdened by poverty, but were not only well-behaved, but also conspicuously pious: therefore, rightly were they to whom so great a token of heavenly benevolence was granted. John, from the dawn of reason, showed himself to be such as are those to whom God, in the most excellent and greatest manner, grants the grace of mature sanctity in early years. Nothing was noted in him that would suggest the ignorance or rashness characteristic of that age of immaturity. At seven years of age, he would rise very early in the morning to attend church, and would participate in two or three Masses, and, most of all, as he most desired, he would serve the priest who was celebrating the divine mysteries. The priests, however, so feared him, that he never approached them with his head uncovered; and he would not speak to them, even though it might cause him cold or heat. Then he would go to school, to devote himself to grammar, and he progressed so much that his teacher was astonished, not only by his example of virtue, but also by the quickness of his intellect. Therefore, when that boy was entrusted to another, that excellent teacher lamented the loss of so excellent a student, both for his life and for the school. He was entrusted by his father, Peter Emmeric, a regular Canon of the Prémontré order, and parish priest of St. Mary's in Diesthemii, with whom he remained for three years, in the institution that he had established for young men. At the age of eleven, he entered there, and

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with great merit he completed the curriculum of the lower studies, and the teacher loved him as a parent loves a child. Meanwhile, time was passing.

[*Latin ed. p. 357*]

From the Sacred Ritual, 357, that John might deliver the Holy [Body] from the altar: which, as the master testifies, he performed with such piety and devotion, that all were convinced that he wished to be an angel rather than a man, serving Christ. This happened many times, whenever he afterwards, and not infrequently, used that Sacrament. This concerns John, even as a boy. As a young man, as was fitting, he exercised these virtues with even greater magnificence. He devoutly honored the Blessed Virgin, whom from his tender years he had chosen as his mother, and was accustomed to recite daily the Rosary and the Psalter of St. Bonaventure in her honor; he prayed and meditated, and walked the Way of the Cross barefoot. He was most sparing in sleep and food, and often, in order to devote himself to meditation, he remained awake; he avoided pleasures, company, and familiarities. His modesty was more than virginal, and it is truly marvelous that men of the greatest importance, among whom he had confessed his sins and reconciled his conscience, testify that he was, throughout his entire life, not only free from mortal, but also from deliberate venial sins. John, our blessed one, readily joined prayer and meditation with spiritual reading, being most eager for true wisdom. And it was truly wonderful to see a young man, scarcely a boy, constantly perusing the Holy Scriptures, the writings of the Fathers, and the lives of the Saints, and meditating deeply, so that he might learn to live well and happily. Hence, the Church rightly proclaimed about our blessed one: "When I was a child, I asked for wisdom openly in my prayer..." I possessed her with my heart from the beginning: therefore, I will not forsake her (Ecclesiasticus 51). Furthermore, it is related that Blessed John derived abundant benefits from his readings. When he meditated on the Epistles of St. Jerome, he learned to despise the world and its vanities; when he read the life of St. Aloysius, he began to yearn greatly to enter the Society of Jesus. But in order to explore this divine vocation, he increased his prayer, fasting, and the use of the Sacraments; and it so happened that he was thoroughly convinced that he had been called to that Society by the Lord. Hence, without delay, he went to Mechlin with a companion, and there, filled with joy, he was received among the members of that Society by the Reverend Father Charles Scribani, the Provincial, on September 24, 1616, in the seventeenth year of his age. After completing a two-year period of training there, as an example, on September 25, 1618, he pronounced his simple vows; and then he was sent to Rome, to devote himself to philosophy. What he accomplished there, and to what extent...

[*Latin ed. p. 358*]

358 From the examples of virtues of your sons, it is recorded in writing

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that when he came to Rome (thus, *Historia Societatis Iesu*, Part V, Book 12, page 289), one hundred novices from the Elandro-Belgian province lived with him during their novitiate in Mechlin. A much larger number of members were present in the Roman college. All testified that they had never noticed anything in him that could be criticized, nothing lacking or incomplete, nothing that did not perfectly conform to the standard of true and solid virtue: not a haughty or inconsiderate word, not a display of spirit, or a sudden affectation, which commonly precede reason; nothing, even in the smallest degree, that might deviate from virtue. This remarkable virtue was wonderfully complemented by a certain sweetness of character and the natural beauty of his countenance. Therefore, it was difficult to judge whether he was more venerable or more beloved. These accounts so beautifully express the type of sanctity of our blessed one that I could not refrain from writing them down. He died on August 13th in the Roman college, having lived for twenty-three years. Shortly before his death, when he was already anointed with holy oil, he held the crucifix of the Most Holy Rosary. Then, placing both books of the Order's rules upon him, he said, "These three are dearest to me; I gladly die with these." Thus, he died so that all might be certain that an unblemished young man had flown to the mansions of the blessed, perhaps to be venerated among them. This inspiration not only touched his companions, but also those outside, and it soon became known that the fame of the angelic young man's virtues and miracles spread far and wide. Therefore, with care and diligence, the Venerable Society of Jesus, shortly after the death of John, collected testimonies in Rome and Antwerp, in the region where he was born, and a formal process was instituted with proper authority. Inquiries were then made about miracles, and several processes were conducted concerning them, which, after being properly completed, on December 13th, in the year 1839, the question of the theological and cardinal virtues of the Venerable John was raised, first with the Most Reverend Cardinal Charles Mary Pedicini, Bishop of Porto, Rufina, and Cento Cellars, Vice-Chancellor of the Holy Roman Church, Prefect of the Congregation of Sacred Rites, and Relator of the Cause. A preparatory congregation was held in the Vatican buildings on May 11th of the year 1841. Thirdly, on December 3rd of the following year, 1842, a general congregation of the Sacred Rites was convened in the same buildings before...

[*Latin ed. p. 359*]

FROM the Decrees of the Sacred Rites, 3S9, Pope Gregory XVI, and successors, where both the Most Reverend Cardinals and other Fathers of the Sacred Rites gave their votes. The Supreme Pontiff, as is fitting, delayed giving his judgment in this matter of such importance. Meanwhile, he repeatedly urged everyone to offer fervent and heartfelt prayers to God, imploring the help of heavenly wisdom. Finally, when he deemed the time

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had come to decide, namely on the second day of Pentecost of the following year, the same Holiness, after the Sacred Rites had been performed, went to the Vatican Palace, accompanied by the Eminent Relator of the Cause, the Promoter of the Faith, and the Secretary of the Sacred Congregation, and solemnly pronounced: "That the Theological and Cardinal virtues, and those attached to them, in the heroic degree of the Venerable Servant of God, John Berchmans, of the Society of Jesus, have been proven, so that it is safe to proceed to further matters, namely, the examination of four miracles." He ordered that this Decree be promulgated and recorded in the Acts of the Sacred Congregation, on the ninth of June in the year 1843. Eighteen years later, the question of the miracles was raised, and, with permission obtained, only three were to be presented. A preparatory meeting concerning these was held on the fifteenth day before the Kalends of July in the year 1861, before the Most Reverend Cardinal Charles Augustus de Reisach, Relator of the Cause. The preparatory session was held in the Vatican Palace on the fifteenth day before the Kalends of June in the year 1864. This was followed by General Congregations on the fifteenth day before the Kalends of January of the same year, where, before His Holiness Pope Pius IX, through the aforementioned Most Reverend Cardinal de Reisach, Relator of the Cause, the following question was proposed: "Whether, and concerning which miracles, there is proof in this case, and to what effect?" The Most Reverend Cardinals and Consultors presented their individual opinions. After the Most Blessed Father had considered these, and having, as he believed, obtained the counsel of the Divine Spirit through fervent prayers, on the second day after the Sunday of Quinquagesima, in the same year, while approaching the Church of the Most Holy Name of Jesus, to solemnly expose the Most August Sacrament of the Altar, after having received the Holy Eucharist in his private chapel, he, together with the Most Reverend then Cardinal Constantino Patrizzi, Bishop of Oporto, and the Secretary of the Sacred Congregation, and the aforementioned Cardinal Charles Augustus de Reisach, Relator of the Cause, together with the Reverend Father Peter Minetti, Promoter of the Faith, and the Reverend Father Dominic Bartolini, Secretary, solemnly and duly decreed: "That there is proof of three miracles, through the intercession of the Venerable John Berchmans, wrought by God; namely, the first, of..."

[*Latin ed. p. 360*]

3G0 FROM THE SACRED CONGREGATION: Concerning the perfect and instantaneous healing of Mary Angela Gilivet, afflicted by a congenital deficiency of humors and scurvy, accompanied by deformation of the bones and contraction of the joints; concerning another: the instantaneous and perfect healing of Mary Angela, of the Novitiate of Roncilonis, of the Order of St. Francis, from a complicated and mortal gastritis; concerning a third: the instantaneous and perfect healing of Sister Mary Crucifix of

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Ancajani, a religious professed in the Venerable Monastery of St. Francis of Sales in the City, from a hectic fever and from a cancerous tumor. The aforementioned decree was ordered by the Supreme Pontiff to be made public and to be recorded in the acts of the Sacred Congregation, on the third day before the Kalends of March in the year 1865. With these circumstances, it remained only for the matter to be considered by the same Sacred Congregation, whether, with the approval of the virtues and of three miracles, it was possible to proceed safely to the solemn Beatification of the Venerable John Berchmans. And so, observing the laws that must be observed, on the day dedicated to the most excellent Doctor of the Church, St. Athanasius, the Holy Father, Pope Pius IX, having introduced his Majesty into the Greek Church dedicated to the same St. Doctor, declared: "It is possible to proceed safely to the solemn Beatification of the Venerable Servant of God, John Berchmans." The solemnity of the Beatification was celebrated with great expense and splendor in the Vatican Basilica, on the twenty-eighth of May in the year 1866. In the meantime, news spread of new miracles which were said to have been obtained through the intercession of Blessed John. Therefore, suppliant prayers were presented to the Apostolic See for the resumption of the cause, with the aim of Canonization, and Pope Pius IX, on March 8th of the year 1866, signed the resumption of the cause with his own hand. Shortly thereafter, the Most Reverend Archbishop of Mechlin and the Bishop of Ghent were granted the faculty of conducting Apostolic processes concerning miracles, one of which was said to have occurred in Brussels through the intercession of the Blessed John, and the other in Ghent; and on July 13th of the year 1866, letters of instruction were sent to each Ordinary. After both processes were completed, the validity of both was approved by the Sacred Congregation on February 15th of the year 1873; and the Holy Father ratified the response on the 17th of the same month. However, it was deemed that the miracle said to have occurred in Ghent could not be adequately defended; likewise, a judgment was made concerning the other miracle.

[*Latin ed. p. 361*]

From the Sacred Ritual, number 36, it was asserted that Father Josephus Danesi, of the Order of the Friars Minor Conventual, had obtained the patronage of the Blessed [Saint], in the year 1873. Therefore, consideration was given to another miracle, which had occurred near the city of America called New Orleans, and the Neo-Aurelian Curia was ordered to investigate it, according to the instructions drawn up by the Promoter of the Sacred Congregation. When this process had been duly completed and had reached Rome, and many avenues had been opened to the Pontifical authorities to advance the cause, it was possible to discuss two miracles, useful for the purpose of canonization. The first of these is as follows: Lady Mary Wilson, born in London, Canada, from heretical parents, embraced

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the Catholic Religion, not without a miracle, and she followed the precepts and counsel of this religion with such diligence that she soon began to feel a strong inclination for the monastic life. Therefore, on June 10th of the year 1866, while traveling from the city of St. Louis to a house of religious sisters dedicated to St. Michael, she was afflicted with the first symptoms of illness, namely, frequent attempts to vomit, and pain in the left side. Upon entering the monastery, despite the most careful medical attention, she was so tormented by pain in the side, and such violent nausea, that she even began to vomit blood. Consequently, the doctors decided that it was highly probable that she was suffering from an ulcer in the stomach. The disease erupted from the stomach into the esophagus, as is customary, into the pharynx and tongue, and so corrupted the gums that a most foul pus flowed from them; and her strength was so weakened that only the coldest sweat and labored breathing demonstrated that Mary was still alive. At that time, heavenly help was invoked by the sisters, and the intercession of the Blessed John Berchmans was sought. Finally, on the last day of the novena of supplications, Mary, who had just been given the viaticum, saw the Saint, who told her that she would be well. And so she recovered, so that not only the disease, but also all its effects, immediately vanished. Nothing was noted, neither in the throat, nor on the tongue, nor in the mouth, to the astonishment of all, and especially of the doctors.

[*Latin ed. p. 362*]

362 FROM THE SACRED RITUALS: No less admiration is aroused by the healing, attributed to the intercession of Saint Mary, of Sister Maria Dionysia Lyon, a religious of the Order of Clarisses, in the monastery of Brussels. For, enjoying good health, she entered the monastery at the age of twenty-two, in the year of our Lord 1831, and was assigned to more arduous tasks because her physical strength surpassed that of the others. Nevertheless, she frequently suffered from ailments of the stomach, which the doctors and sisters feared would have dire consequences. However, in the year 1861, after grave and persistent labors, and after spending vigils caring for sick sisters, the disease presented itself to Dionysia with symptoms from which the doctors rightly suspected a lesion of the stomach and the nervous system. Indeed, her insatiable and unappeased hunger, and her inability to gain strength from food, clearly indicated a serious condition. Furthermore, the violent and excruciating pains, and the daily increasing weakness, especially in the lower limbs, so resembling paralysis, most clearly demonstrated a grave defect in the spine. This judgment of the doctors was confirmed, for as the disease progressed daily, Dionysia was ordered to be taken to the infirmary, where, after being examined by them, she lay in bed for several months. When the time seemed to have come for her to die, the superiors ordered nine days of prayers in honor of Saint John. After these prayers were completed, when Dionysia was taken to

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the church, there, refreshed by heavenly grace, she fervently implored the help of God and of the Blessed Intercessor, with complete confidence, and immediately regained her health, so that on the same day she was able to attend the common prayers, to partake of the common meal, and to use the common facilities. Concerning these miracles, a preliminary examination was held before the Most Reverend Cardinal Bartolini, Prefect of the Sacred Congregation for Rites, and Relator of the Cause, on January 3rd of the year 1786; again, it was discussed in the Vatican Apostolic Palace on April 11th of the following year, 1787; and finally, at the General Assembly, held there on July 11th of the same year, before His Holiness Pope Leo XIII, in which the aforementioned Most Reverend Cardinal Relator raised the question: "Concerning which miracles does it consist in this case, and to what effect?" The Cardinals and Consultors then gave their votes. After listening attentively to the votes of each, the Most Blessed Father, considering it prudent, according to the custom of the Supreme Pontiffs, to postpone his judgment, so that, in the meantime, humble prayers might be offered for this purpose.

[*Latin ed. p. 363*]

FROM THE SACRED CONGREGATION, it is declared that God not only works miracles in His servants, but also, with singular providence, arranges the honors of His servants within His Church. On the feast of All Saints, with the most pious sacrifice offered, the same Holiness, in the noble Vatican, already having, in the year of Our Lord 1837, addressed the Most Reverend Cardinal Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and Relator of the Cause, and also the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and the Reverend Father Lawrence Salvati, Secretary of the same Sacred Congregation, and those present with them, solemnly pronounced: That two miracles, wrought by the intercession of the Blessed John Berchmans, have been proven by God; namely, the first: the instantaneous and perfect healing of Mary Wilson, a novice in the novitiate of the Virgins of the Most Sacred Heart of Jesus, in the town of Grand Coteau, in the Archdiocese of Neo-Aurelianensis, from a lethal ulcer of the stomach, accompanied by acute phthisis; to whom, being near death, the Blessed John appeared and immediately restored her to perfect health; and the second: the instantaneous and perfect healing of Mary Dionysia Lyon, a professed nun in the monastery of the Poor Clares in Bruxellensi, from a chronic gastritis, with an ulcer of the stomach, and a very serious injury to the spine. This Decree was ordered to be recorded and published in the Acts of the same Sacred Congregation on the first of November of the year 1837. Finally, what remained according to the law, in the General Congregation of Sacred Rites held in the Vatican buildings, before the Most Holy Pope Leo XIII, in the aforementioned year, on the seventeenth day before the Kalends of December, the Most Reverend Cardinal Angelo Bianchi, Prefect of the same Sacred Congregation and Relator

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of the Cause, proposed the following question: Whether, with the approval of the two miracles having been granted after the veneration of the Blessed John Berchmans, by the Apostolic See, it is permissible to proceed to the solemn canonization of him? And each of the Most Reverend Cardinals and Fathers Consultors gave a unanimous affirmative opinion. Finally, the Most Holy Father, having received a special light from God, on the first Sunday of the Sacred Advent, ordered the salutary Host to be carried to the noble Vatican Hall, and commanded the aforementioned Most Reverend Cardinal Angelo Bianchi, Prefect of the Sacred Congregation and Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and the Reverend Father Lawrence Salvati, Secretary of the same Congregation, and those present with them, to proceed to the solemn canonization of the Blessed John Berchmans. This Decree was ordered to be published, and to be recorded in the Acts of the Sacred Congregation.

[*Latin ed. p. 364*]

364 On the day designated by the Sacred Congregation of Rites, it was ordered that the Apostolic Letters concerning the canonization should be dispatched with the seal, and it was commanded that they be issued whenever the canonization is to be celebrated, on the 5th of December, in the year 1787. This, which had long been desired, is finally celebrated for the good of the Christian republic, and especially for the benefit of the young; and the Society of Jesus, which has rendered such excellent service to this same Christian republic and youth, urges this matter repeatedly. FROM THE SACRED CONGREGATION OF INDULGENCES: Sodalities under the title of the Annunciation of the Blessed Virgin Mary, as well as Sodalities of the Good Death established everywhere, cannot enjoy the same indulgences and privileges granted to them, unless they are joined to the respective primary Sodalities existing in the Eternal City. The Most Blessed Father Anthony M. Anderledy, General Prefect of the Society of Jesus, prostrate at the feet of the Holy See, explained that, formerly, the Congregations of the Blessed Virgin Mary and the Good Death, although they arose in the churches of the Society, could not obtain the indulgences granted to them by the Apostolic See, unless they were joined to the General Prefect of the Society of Jesus, to whom this broad power had been granted by several Roman Pontiffs and frequently confirmed, to the primary Congregations of the same title canonically erected in the Roman College, or in the Church of the Most Holy Name of Jesus. From this benevolent disposition of the Holy See, among other things, this particular benefit arose: that all those Congregations, although spread throughout the world, would be governed by the same laws and customs, and, being bound together by a common bond, would stimulate each other to all good works, and would produce everywhere remarkable fruits for the glory of God and the salvation of souls. However, for some time now, the aforementioned Congregations

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of the Blessed Virgin Mary and the Good Death are not only erected by others (as had been the custom for a long time), but are also enriched with indulgences granted to them by this Holy See, so that they are in no way joined to those primary Congregations in Rome, but each of them throughout the world...

[*Latin ed. p. 365*]

FROM the document concerning Indulgences, number 365, which remain unconnected to each other, and not joined to any common center. Therefore, the aforementioned petitioner earnestly and humbly requests that the Holy See, if it seems advantageous for the greater progress of these Congregations, benignly decree that the Congregations of the Most Blessed Virgin and of the Good Death, even though they may have been established by others, nevertheless, in the future, cannot obtain the Indulgences granted to them by the Roman Pontiffs, unless, as has been the practice for a long time, they have been aggregated to the Primary Roman Congregations, with the express consent of the Ordinary of the place, obtained from the General Prefect of the Society of Jesus. And God, etc. His Holiness, Our Lord Pope Leo XIII, in an audience held on September 17th, graciously approved, according to the requests made, with the necessary provisions to be observed. This present decree is valid forever, without any need for a Brief to be issued. Contrary provisions notwithstanding. Given from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on September 17, 1887. For the Most Reverend Cardinal, Father Thomas M. Zigliara, Prefect. (L.-VS.) Most Reverend Cardinal Ledochowski, Alexander, Bishop of Oels, Secretary.

DECREE FOR THE CITY AND THE WORLD, by which Indulgences are granted to those who recite the Little Office of the B.V.M. From the audience of His Holiness, on November 17, 1887. A pious and praiseworthy custom has long flourished, never interrupted throughout the course of centuries, among the faithful, of honoring the Most Blessed Virgin Mary with a devoted recitation of the Little Office, which exists in her honor in the Roman Breviary, recognized and approved by St. Pius V. To this aforementioned recitation and use of the Office, that same holy Pontiff added a greater incentive by granting Indulgences, not only to those who were bound to recite it on the days specified in the Rubric, but also to other faithful, for whom it was a custom out of their own devotion to recite it.

[*Latin ed. p. 366*]

From the Sacred Congregation of Indulgences.

In order that this most salutary custom of reciting the praises of the Blessed Virgin may increase still more among the Christian people, especially in this age in which it is necessary to take refuge with confidence in the most holy Virgin, lest we be overwhelmed by so many troubles that

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press upon us from all sides, supplications have been presented to Our Most Holy Lord, so that He might deign to promote the practice of reciting the Little Office of the Blessed Virgin, with a greater treasury of Indulgences. And Our Most Holy Lord, receiving these prayers with great piety and earnestly desiring them, in order to give a new testimony of his veneration and gratitude towards the most holy Mother of God, as the fiftieth anniversary of its first institution approaches, and to foster more zeal and piety in the faithful, so that they may continue to offer worship and honor to the same divine Mother, He has benignly granted the following Indulgences:

1. A plenary Indulgence, to be gained in any month of the year, on any day chosen by each individual, by all the Christian faithful of both sexes, who, during the entire month, have devoutly recited the entire Little Office of the Blessed Virgin, that is, Matins, which consists only of one nocturn of the current day, from the beginning until the completion thereof, inclusive, provided that on the aforementioned day they have truly repented, and have gone to Confession, and have offered pious prayers to God for a certain time, according to the mind of His Holiness.

2. Seven years and seven quarantines, to be gained once a day by those Christian faithful who have devoutly and with a contrite heart completed the aforementioned Little Office.

3. Three hundred days, also to be gained once a day by those who, likewise, have devoutly and with a contrite heart recited only Matins, as mentioned above, with the Lauds.

All of these Indulgences, Our Holiness has benignly declared to be applicable also to the souls of Christian faithful detained in Purgatory.

This present grant is valid forever, without any dispensation. Notwithstanding anything to the contrary.

Given from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on the 17th of November, 1887.

CAIETANUS, Cardinal Aloisi Masella, Prefect.

(L. f. S.)

ALEXANDER, Bishop of OENSIS, Secretary.

[*Latin ed. p. 367*]

FROM THE SACRED DECREES ON INDULGENCES, 367. Sodalities under the title of the Blessed Virgin Mary of Grace, as well as those of Saint Joseph and Saint Camillus de Lellis, Confessor, established in all places, cannot enjoy the respective Indulgences and privileges, unless they have been incorporated into the Archisodality of the same name and institution existing in the esteemed City.

MOST HOLY FATHER: Among the many pious Sodalities that exist in honor of the Blessed Virgin Mary, that which also bears the title of the

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Blessed Virgin Mary of Grace, and of Saint Joseph, her Spouse, as well as Saint Camillus de Lellis, Confessor, must also be mentioned. This has its origin with the Regular Clerics who minister to the sick, who first established it in the principal church of their Order, dedicated to Saint Mary Magdalene the Penitent in this esteemed City, and subsequently spread it in their other churches as well. With the passage of time, the aforementioned Sodalitiy also acquired the title of Archisodality, with the faculty of incorporating other similar Sodalitiies and granting them the Indulgences bestowed upon it by the Roman Pontiffs.

Although this right of incorporation is granted only to the supreme Moderator of the Archisodality, who is himself the General Prefect of the Order of Regular Clerics who minister to the sick, it has often happened that, because of the faculty granted to them by a special Apostolic Indult to establish Sodalitiies with Indulgences, the Bishops themselves have established the aforementioned Sodalitiies without presenting any request for incorporation to the supreme Moderator of the Sodalitiy. Experience demonstrates that this does not in the least benefit the good of the same Sodalitiy. In these Sodalitiies established in this manner, which are not connected to each other with any bond with the primary Sodalitiy, which has been established by the Apostolic See as a center for others, there gradually diminishes the unity of direction and the uniformity of pious practices, which contribute greatly to the increase of honor and devotion towards the Blessed Virgin, and also to the greater spiritual good of the members of the Sodalitiies themselves.

Considering this, Joachim Ferrini, today the humble General Vicar of the Regular Clerics who minister to the sick, humbly presents prayers to Your Holiness, that Your Holiness would deign to benignly decree that, in the future, Sodalitiies canonically established under the title of the Blessed Virgin Mary of Grace and of Saint Joseph, her Spouse, and of Saint Camillus de Lellis, Confessor, by the Decree of the Reverend Ordinaries outside the churches of the Regular Clerics who minister to the sick, may in no way enjoy the Indulgences, graces, and privileges granted by the Roman Pontiffs to the Archisodality existing in Rome in the aforementioned church, unless they have been incorporated into the same Archisodality, with the prior consent of the Reverend Ordinaries, by means of formal letters to be issued by the same General Prefect of the aforementioned Regular Clerics who minister to the sick. And God, etc.

[*Latin ed. p. 368*]

368 FROM THE SACRED CONGREGATION FOR INDULGENCES. From an Audience of the Most Holy Father on November 17, 1887, the Most Holy Pope Leo XIII graciously granted, according to the petitions, the following grace, with the due observances to be observed. This present decree is valid forever, without any brief being required.

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Notwithstanding any contrary provisions whatsoever. Given from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on November 19, 1887. CAIETANUS (L. f S.) Card. ALOISI MASELLA, Prefect. ALEXANDER, Bishop of Oenus, Secretary.

FROM THE SACRED CONGREGATION OF THE INDEX. LETTERS TO THE REVEREND GENERAL SUPERIOR OF THE PASSIONIST FATHERS, IN WHICH THE SECRETARY PRESENTS THE RESOLUTIONS ON TWO QUESTIONS REGARDING THE READING OF EPHEMERIDES OR BOOKS OPPOSING HERESY.

REVEREND FATHER,

Through letters from the Convent of SS. John and Paul, dated March 25, 1879, and signed by your Reverence, two following questions were proposed to the Sacred Congregation of the Index, to be clarified:

I. Do those who knowingly read ephemerides promoting heresy incur the excommunication mentioned in Article Second of the Apostolic Constitution *Sedes Apostolica*, which is reserved in a special manner to the Supreme Pontiff?

II. Do those who read, whether books properly so called, of any author, or ephemerides containing heresy, incur the censure of the Index, as renewed and confirmed by the Most Holy Pope Pius IX, as mentioned above?

The Sacred Congregation of the Index responded negatively to the second question; as your Reverence has already been informed.

And since the first question was considered to pertain to the Supreme and Universal Inquisition, it was presented to that body, so that it might deign to clarify it. The Sacred Supreme Inquisition, on April 21 of the current year, responded negatively to the proposed question.

Since the Most Holy Office informed me of this, it imposed upon me the duty of making known to your Reverence the resolution of such import.

April 27, 1880.

Er. HIERONYMUS PIUS SACCHERI,

Secretary of the Sacred Congregation of the Index.

[*Latin ed. p. 369*]

369 LETTERS in the form of a Brief, by which the Most Holy Father grants that Patriarchs, Archbishops, and Bishops may use a violet-colored biretta. LEO XIII, Pope. For the perpetual memory of this matter. It has been brought about by the illustrious grace of God that the fiftieth anniversary of the day of Our consecration as priest could be celebrated by Us, surrounded by a numerous gathering of faithful, and with the venerable brotherhood of Our Bishops, and with the entire Christian world. To this great celebra-

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tion, a greater honor was added, namely, the bestowal of heavenly honors, which, inspired by the Holy Spirit, We solemnly conferred upon certain outstanding men of sanctity, by Our supreme authority. All of these things were pleasing and delightful to Us. First, We are encouraged to hope that, moved by the prayers of the faithful and the intercession of the saints, God will bring forth suitable remedies for so many evils that afflict human society, and will grant the world the desired peace and tranquility. Secondly, We rejoice because the countless expressions of devotion and obedience with which We have been honored by the faithful throughout the world demonstrate that true piety and love for the Apostolic See are deeply rooted in Christian hearts, and also that the praise is due to the most venerable brothers, the sacred prelates, whose works and virtues have caused the worship of the Catholic religion to flourish and prosper so greatly among the peoples entrusted to them, and to whom the hearts of the people are devoted to this See and to the Roman Pontiff. In order that the memory of this happy event may not fade, and that We may offer a public testimony of Our benevolence to the venerable brothers, We have deemed it fitting to adorn all the prelates of the entire world with an external sign of honor. Wherefore, by Our Apostolic authority, We grant perpetually, by these letters, that all Patriarchs, Archbishops, and Bishops may freely and lawfully use a violet-colored biretta in the future. We wish this to be exclusively for those who hold the dignity of a Bishop, so that no one else may possess such an adornment. Notwithstanding any constitutions and Apostolic sanctions, and all other things, even if they contain a special and individual mention or derogation to the contrary. Given at Rome, at St. Peter's, on the third day of February, in the year 1888, in the tenth year of Our pontificate. M. Card. LEDOCHOWSKI, Secretary. Acts, Vol. XX, page 336.

[*Latin ed. p. 370*]

370 FROM THE HOLY CONGREGATION OF THE COUNCIL OF BELLUNO. REGARDING MARRIAGES. August 20, 1886. Session 24, chapter 3. SUMMARY OF THE CASE. On the Kalends of December, 1885, a dispensation from the impediment of consanguinity in the third collateral degree, with the exception of incest, was granted by the Apostolic Chancery, in the matter of the poor, through their advocates, John Baptist De Martin Fabbro and Anne, and Genoveffa Carbogno, residents of the parish commonly called Candide, in the Diocese of Belluno, so that they might lawfully contract marriage with each other. However, this generosity of the pontiff cannot be put into effect, since a certain Mary Constantia De Martin Fabbro, also of the same parish, has opposed the proposed marriage. She stated before the parish priest of Candide on February 8, 1886, and declared to him that, eleven years ago, she had begun to harbor affections for John Baptist, and that she had been seduced by him with a promise

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of marriage, and that she had borne two children from him, who are still living; and she also declared that she did not wish to inform her parents. And on the same day, John Baptist confessed to the same parish priest that he was indeed the father of the children about whom Mary Constantia had spoken, and that he had not told her, but to a person outside the family, that he would marry her, but that he had changed his mind due to serious injuries inflicted upon him by her and her mother. Afterwards, he said, he had cultivated affections for Genoveffa Carbogno, and after she had borne him a son, who is now deceased, he entered into a civil marriage with her, as it is called. The parish priest then, also in the name of the episcopal curia, tried to persuade the woman to inform her parents. But it was of no avail. Therefore, when the Ordinary appealed to the Holy Congregation, it was decided: "As far as the marriage is concerned, due to the aforementioned reasons..."

[*Latin ed. p. 371*]

BELLUNEN. 371, that they may not be canonically proven, the Bishop should see to it that a woman is induced to relinquish her right for the spiritual good of the betrothed; the betrothed, for his part, should compensate the woman for the damages caused by his fault and his economic condition, etc." However, the woman could not, by any means, be persuaded to change her mind. The man, on the other hand, declared himself ready to make amends for the damages caused, but, due to his economic condition, he had nothing at that time that he could offer to the woman: which the woman herself willingly accepted. Disputatio Synoptica. Indeed, from the woman's perspective, it is the case that the betrothal, although clandestine, is valid under a grave title of justice and obliges the parties to celebrate the marriage. This obligation not only presses in the forum of conscience, but also in the external forum, so that before a judge, an action may be brought to obtain fulfillment of that same obligation against the reluctant party, chapters 10 and 17 concerning betrothals and marriage. In the case of the betrothal between John Baptist De Martin Fabbro and Anne, and Mary Constantia De Martin Fabbro Simon, neither the man himself who wishes to withdraw from it has dared to openly deny it, but rather, it seems, he has at least implicitly admitted it, since he declared himself ready to make amends for the damages caused to the woman. Since it is certain in law that betrothals, even if made secretly, are valid, and the more expeditious the manner of the betrothal, the more difficult it is to prove it; therefore, when there is an assertion from one party, as in this case, supported by other circumstances, it is necessary to admit the existence of the betrothal. Otherwise, it would almost never be possible to prove it. Furthermore, in this case, there is carnal intercourse and the conception of two children. Indeed, he who has defiled a girl without any hope of marriage is bound in both forums to take her as his wife or to provide her with a dowry,

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chapter 1 concerning adultery and chastity: "If a man seduce a virgin not yet espoused, and lie with her: he shall endow her, and have her to wife." Ferraris V. Dos art. 2; Reiffenstuel De spons. et matr. tit. 1, lib. 5, decis. 71; THESE ARE IN FAVOR OF THE WOMAN.

[*Latin ed. p. 372*]

BELLÜNEN. I read in book 2, chapter 20, questions 1 and 2, number 7; Pirhing, in the title, number 41; and others. Among these, although the particle "et" is maintained, and it is understood to mean "or," it is generally accepted that it is reserved to the defiled girl and her parents to choose what is best for them, whether marriage or a dowry. Thus, the dowry is considered a subsidiary remedy in the case where the father does not wish to give his daughter to the defiler in marriage; Reiffenstuel, in the aforementioned place, number 85 and 87, cites several Doctors and argues from *Ius Civile* concerning the abduction of a virgin, and from *Ius Canonicum*, book 1, title 3, section "Si quis volentem," from the work *De liberis hominum*. Although many, and especially in current practice, maintain that carnal intercourse does not constitute proof of the existence of betrothal, it must be understood that this is the case when other circumstances do not concur, and the girl has not been chaste. Indeed, it is not presumed that a chaste girl would freely offer her body, unless she has been enticed by the hope of a certain marriage. However, no one accuses Mary Constantia, nor Martin Fabbro, nor Simon, of being dishonorable, which certainly a man would have done, if such actions or reputations were to be found. Therefore, in this case, where betrothal exists, and considering the circumstance that two sons have been born from this carnal intercourse, who are still alive, any compensation from the man who is to marry Mary Constantia is entirely excluded, "according to Saint Rota in Constantia, before the Most Reverend Matthew, on July 7, 1751, in Cosci." - there - "The option of either giving a dowry or marrying the defiled virgin is not granted, whenever, as in this case, a promise of marriage has preceded from the man's side to enter into the marriage." For indeed, just as the woman, by giving her body, has fulfilled and completed the contract on her part, so the man cannot retract from it, but he has a precise obligation to keep faith with the promise of marriage, as the text in chapter 1, "De adult." and the unanimous opinion of the Doctors affirm in *De Matrimonio*, book 1, chapter 2, number 3; Sánchez, in the same treatise, book 1, dispute 9, number 3; and Rota, repeatedly, etc. Furthermore, just as Catherine gave birth to a son from such intercourse, who is still alive, so it remains...

[*Latin ed. p. 373*]

Furthermore, because of this defamation, Gaspar is all the more obligated to enter into marriage with her, as stated in decree 4, number 3, and decree 5, number 42, before Falconer. And if, at times, the Church permits

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a party to withdraw from betrothal, it is only under a grave and proven reason. For betrothal constitutes a mutual and reciprocal contract, bearing a serious obligation concerning the state of marriage. Therefore, the resolution of such a bilateral contract is accomplished by the mutual consent of the contracting parties, so that the acquired rights of neither party are violated. Thus, the permission to dissolve betrothal, which the supreme authority grants to safeguard the freedom of marriage, must be strictly understood, lest that which is instituted as a remedy become a dangerous violation of rights and a perilous relaxation of the given faith. Among the causes that may be considered for granting such a dissolution, it does not seem that civil marriage can be included. Indeed, this civil law institution, insofar as it is harmful to the authority of the Church, is so vehemently condemned in its legislation that it does not even grant effect to consequences arising from any invalid marriage, as is evident from the decree of the Sacred Congregation of the Council, dated March 13, 1879. Therefore, if it were to admit this as a reason for invalidating betrothal, it would certainly seem to deviate somewhat from established practice. (1) Moreover, in this case, there are two children who exist, born to John Baptist and Maria of Constance, who await their legitimization and support, since the son born of Genoveffa Carbogno has died. Therefore, greater temporal harm and a greater scandal are to be feared if the betrothal is relaxed, than if John Baptist is compelled, before the Church, to enter into marriage with Maria of Constance. Furthermore, if the danger of civil marriage, or its celebration, could be considered as a reason for withdrawing from betrothal, it would open the door to countless abuses and frauds. For a wide path would be opened for withdrawing even without cause from the faith given, and (1) See Volume XII, page 147.

[*Latin ed. p. 374*]

374 BELLUNEN. Then, with contempt for canonical laws, each one would pursue his own deceit; and how much harm this would cause to the Christian people, no one can fail to see. WHAT FAVORS THE MAN. The favor of the man can first be observed when, in the case presented, the proof of the betrothal is lacking. For the man stated that he had never promised the woman marriage, but that he had confessed to a third party that he had, for some reason, intended to marry her in the future; from which, however, a serious, effective, and deliberate will, which is required, cannot be deduced. The Rota, before Lancetta in Baren, on June 26, 1711, stated: "The words about which the aforementioned witnesses testified – that he wanted to marry her, that he was going about it to the end of marriage, etc. – carry less weight, because they do not indicate a present, willed consent, but only show a certain desire to enter into marriage, so that from this, no precise obligation to effectuate the marriage can arise," as stated by Sperell, decree 95, number 10; Panimoll, decree 23, number

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6; Rota, decree 267, number 5, part 18, recent; and for a solid reason, because a great difference exists between the promise of marrying and the betrothal itself, Sánchez De Matrim., book 1, section 18, number 13. Furthermore, the existence of a betrothal in a case cannot be conclusively proven by conjectures and presumptions. Indeed, all of this is reduced to carnal intercourse between John Baptist and Mary Constantia. In truth, from this persistent use of the body between persons of their own free will, a mutual promise to marry seems less likely, and rather, a desire to satisfy lust is more apparent. To these things, one must add what is read in Cosci De Sponsalibus, book VII, number 63: "It is not sufficient to prove that the rapist said that he wanted to enter into marriage with the woman who was raped; for these words are rather considered to be spoken in jest, and for the sake of love, rather than with the intention of obligating himself," as stated in Las. in leg. 1, § If anyone thus, number 21 ff., concerning pacts; Ricciardell. in Licaeo eccles., chapter 9, section 8, number 96, and they can only signify a certain inclination.

[*Latin ed. p. 375*]

BELLUNEN. "375. Furthermore, the betrothal of the future, or the bare and simple preordination and disposition of the will of the one who intends to betroth the one who has been defiled, from which it cannot be established that there is such certain and deliberate consent that the betrothal is said to be perfected." More rigorously, "what is required for the existence of betrothal is the most rigorous proof," because "when it is a question of a matter in which a man, having almost lost his freedom, is reduced to a bond almost of conjugal servitude." The Rota [of the Sacred Roman Rota] cites this, and Ferraris, *De Sponsalia*, n. 120 and following, and Reiffenstuel, *De Sponsa! et Matr.*, n. 67, also agree. But even if it is a question of true betrothals, it has not been established that any obligation arises from them against the man. I am speaking of the injuries which John the Baptist suffered from Mary of Constance and her mother, when the legal proof of these is desired, and when it is believed that this happened because of the man's reluctance to marry the woman he had violated. And it has been observed that discord and estrangement of affections have arisen between betrothed persons, from which, if the man were forced to marry, a happy outcome of the marriage could not be foreseen. Regarding Cosci, I, c., n. 203: "Even in that most difficult case, in which a woman, having been betrothed, had been violated by the betrothed, and had lived with him for several subsequent years, and had conceived and borne several children from his intercourse, it was not nevertheless necessary to force the violator to marry, because, given the hatred and seeds of malice that had arisen between the betrothed, it was rightly feared that the marriage would have a very unhappy outcome; for this reason, the Rota, following the sacred canons in judging, held that he should be allowed to abstain

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from marriage." Ciarlin, *Contra for en*, lib. 2, cap. 174, paragraphs 73, 77, 79. "But the greatest obstacle to the celebration of the marriage between John the Baptist and Mary of Constance is, undoubtedly, the civil contract which he made with Greneveffa Barbogno, without any thought of fraud."

[*Latin ed. p. 376*]

376 BELLUNEN. states that [a certain situation] has occurred. From this, although it may seem improper, a civil obligation arises, by which John the Baptist must take Greneveffa Carbogno as his wife; and more inconveniences and damages concerning domestic affairs and the legitimacy of the children would result before civil law, if the execution of the previous betrothal were to be hastened. Therefore, among the reasons for which it is permissible to dissolve a betrothal, civil marriage also seems to deserve consideration. Indeed, those reasons which are commonly enumerated among the Doctors [of the Church] are not stated definitively, but only demonstratively. Thus, if an equally serious reason exists, the established rule of law applies: "where the reason is the same, the legal disposition will be the same." It is transmitted among all authors of great renown, and especially among De Luca, *De Matrimonio*, discourse 8, number 12, that the reason for dissolving a betrothal is "a matter of discretion, in which a certain and determined general rule cannot be given," but depends entirely on the prudent judgment of the judge, according to the customary nature of discretionary matters, based on the particular circumstances of each case, as the quality of persons, places, and times may require. Furthermore, all are in agreement, as De Luca, *loc. cit.*, and others state, that indignation of the father or a wealthy paternal grandfather and grandmother, from which the fear of disinheritance or deprivation of those inheritances may arise, which someone, for example as the eldest son, might reasonably expect, should be included among the reasons for dissolving a betrothal. Indeed, if the fear of the loss of a hoped-for inheritance is compared with the certain evils of scandal, the illegitimacy of children, and other inconveniences that would result from observing the previous betrothal, then it is not difficult to see why civil marriage should not be considered among the reasons for dissolving a betrothal. Even more so, because in unsworn betrothals, any, even the slightest, reason is commonly held to be sufficient to effect a withdrawal; so the Sacred Roman Rota states in decision 31, number 30, and in the decision *Cavalerio*, decision 467, number 3, and *Dunoz*, June decision 296, number 12, and in the recent decision number 30, page 10, and decision 185, number 6, page 14. Furthermore, in the instruction of the Sacred Congregation for the Propagation of the Faith, dated...

[*Latin ed. p. 377*]

BELLÜNEN. 377, 9 Maii 1877: Inter causas ad dispensationem ab impedimentis matrimonialibus additur "periculum matrimonii civilis." Praeterea,

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si periculum consideratur causa sufficienti ad dispensationem, a fortiori causa erit ipsum matrimonium civile completum. Iura alterius partis non videntur nimis urgenda, si acquisita sunt in initio sponsarum, sub conditione, scilicet, dummodo res ita perseverent et mala magna non obveniant. Denique, pars recedens debet compensare damna illata alteri parti, quod in casu Ioannis Baptistae non excluditur, licet actu impotens sit, cum ipsa mulier ultro admisit. Post haec, propositum fuit diluere dubium subsequentem: "An sit locus remotioni impedimenti, nihil transeat, ad effectum matrimonii in casu."

RESOLUTIO: Sacra Congregatio, re cognita die 20 Augusti 1887, censuit respondere: "Affirmativum, monito viro, ut in quantum potuerit, subveniat proli."

EX QUIBUS COLLIGIS:

I. Non datur optione nubendi aut dotandi virginem defloratam, quoties ex parte viri praecesserit promissio ineundi matrimonium: sicut enim mulier suum tradendo corpus, contractum ex parte sua implevit, sic viro praecisa obligatio manet servandi fidem.

II. Eoque fortius compellendum esse virum ad matrimonium cum defllorata ineundum, si ex tali commercio filii enati fuerint, ob mulieris diffamationem.

III. Verum in themate formiter non fuisse probatam matrimonii ineundi promissionem ex parte viri patet: verba enim, quae viro tribuentur, innuunt tantum quoddam desiderium sponsalia contrahendi, sed non ipsa sponsalia.

IV. Etsi autem mulier, praeviis sponsalibus ac promissionibus, violata fuerit, et pluribus subsequentibus annis versata fuerit cum promissore, et ex eodem concubitu filios pepererit, tamen si suboriantur odia inter sponsos, promissio...

[*Latin ed. p. 378*]

378. In Belluno, a woman should not be compelled to marry, lest the marriage have an unhappy outcome. V. That a man should not be compelled to marry, this involves, among other things, a civil contract; from which countless evils would arise. FIRMO: Regarding a mortgage guarantee. On August 20, 1887, by summary proceedings, a decree of Valerio, dated January 3, 1861, suppressed the existing chapter in the parish church of St. Michael the Archangel in the city of Fermo, and the assets of the collegiate church, whose value was approximately 100,000 pounds, were granted to patrons, so that they might redeem them. The patrons were from two parts of the parish of St. Michael, and from a third, the Counts G. The patrons redeemed the assets, although at great expense, due to a lawsuit initiated against them by the treasury; and, in satisfaction of the

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expenses, they still hold them under administration. Of the Counts G., who have a right in the matter, there are now two, the priest Aloysius and Count Caietanus; to whom, therefore, according to civil law, belongs a portion of the assets of 33,000 pounds. Indeed, one of them, being a family head, was in financial straits due to the education of his children and needed money which he neither had nor could obtain, except by providing a mortgage guarantee; and, since he was not enriched by patrimonial assets that would obligate him to this purpose, he requested from the Sacred Congregation the permission to contract a loan of 4,000 pounds, pledging the assets of the collegiate church that belonged to him civilly. With the consent of his brother and the two dignities that today represent the chapter and govern the parish, and with the recommendation of the Ordinary, the grace was granted in an audience of His Holiness on January 25, 1883. SUMMARY OF THE MATTER. E X.

[*Latin ed. p. 379*]

FIRMANA. And this, although another patron had not been heard, namely the people of the parish. For the Archbishop had considered it not expedient to do so, "first, because (as he then said) it did not seem opportune to call a public assembly and to expose the private distresses of the orator to the entire assembly of the parishioners, and secondly, especially because the petition of the orator does not prejudice any right of the parishioners." Now, the same orator has again fled to the Holy See, requesting another loan, namely of one thousand livres, to be contracted with similar collateral. For he is in need of completing the education of his son in a public university, and of quickly providing suitable marriages for his two daughters, who are orphans and without a mother. The orator declares that, although of noble birth, he is nevertheless in the most miserable condition, and therefore he humbly implores the piety and charity of the Holy See. When questioned, the Archbishop replied: "The prayers of the companion Caietan G., one of the patrons of the collegiate Church of St. Michael the Archangel in this city, are based on truth. He has indeed borne, and is still compelled to bear, very heavy expenses, the orator being, of course, burdened by domestic distresses, in order to educate his son in the best institutions and to honorably provide for his daughters in marriage. Indeed, the granting of the requested grace will postpone the canonical nomination and institution; but equity dictates that a patron, of most commendable piety and religion, verging on poverty, should be assisted from the fruits of the benefice. Those who seem to have an interest are only those who, on the occasion of the preceding decree, were consulted, namely the brother of the orator and two dignitaries of the chapter, or parish priests, representing the entire chapter, in the absence of the other canons. Furthermore, the brother of the orator fully approves of the petition; and the parish priests have indicated that they

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will not in any way oppose the supplications of the petitioner, provided that the portion belonging to the entire assembly of the parishioners does not suffer any detriment. Therefore, having considered all these things, I humbly believe that the requested permission can be granted, and indeed I strongly recommend the granting of this petition."

[*Latin ed. p. 380*]

FIRMANA 380. A Synopsis of the Matter. From the narrative presented, sufficient and ample information is available regarding the matters at hand. To assist the poor, to provide dowries for girls in need, to complete the education of a young man so that he may earn an honest living, is pious and religious, and should be fostered with all diligence, especially if the recommendation of the Ordinary himself is added; and the petitioner should shine with piety and merit before the Church. Conversely, the granting of loans carries the appearance of worldly dealing, as is taken from Clementine De rebus eccles., non alien. This matter appears to be all the more difficult to consider, the greater the potential loss to the Church, and the more frequent the request. Considering these points, the question arose as to what should be answered in prayer. RESOLUTION. After discussion, the Sacred Congregation, on August 2, 1887, decided to respond: It is not advisable.

AUGUSTANA. A Dispensation from Irregularity. On September 10, 1887. Through summary petitions. A SUMMARY OF THE FACTS. The Ordinary of Augusta reported to the Sacred Congregation that Francis Xavier Mang from Mohrenhausen, a diocesan cleric of Augusta and a student in the seminary, aged 24 years, and already initiated into the minor orders, most earnestly desires to be admitted to the sacred orders of subdiaconate and priesthood. With regard to knowledge, morals, and an undoubted vocation, he is considered most worthy. However, "because of his diminished eyesight," the Bishop states, "I do not dare to promote him to the sacred orders unless a dispensation is obtained from the Apostolic See regarding the aforementioned bodily defect: which grace the Holy Father has most graciously granted to him."

[*Latin ed. p. 381*]

In Aosta, the esteemed Francis, with utmost humility and fervent zeal, pleads his case. Regarding the defect in his vision, the Bishop declared, "It is known that the speaker, having completed his studies in the humanities and literature with distinction, was duly admitted to the studies of philosophy and sacred theology, and was enrolled among the students of the seminary, when he was afflicted with an inflammation of the eyes. This resulted in the loss of sight in his right eye, which is now almost completely absent; and the sight of his left eye has diminished to such an extent that he can only read books printed with a somewhat larger font.

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Thus, he can read the text of the Missal and the Ritual of this Diocese, and, moreover, he is perfectly capable of performing all that is required in the celebration of the Mass, without any danger, as demonstrated by experience. Furthermore, not only do the testimonies of two physicians, which have come to my attention, attest that the visual acuity of his left eye is gradually improving, but even with this knowledge, the King of Bavaria did not hesitate to grant him the title of "table" for the acquisition of sacred orders. " Therefore, the Bishop concluded, "it is fitting that the speaker be adequately provided for, and that, besides the defect in his vision, he enjoys full health of body, and that he is able to preach and administer the sacraments, and that he alone may be deemed unsuitable for reciting the entire Divine Office daily for the time being; moreover, the speaker, who is the sole offspring of his parents, has had his knowledge, morals, and true vocation to the priesthood thoroughly proven, and the parents would be most unhappy, along with himself, if the son, who has so deservedly been chosen for the grace of the priesthood, were to be rejected. Having carefully considered all the circumstances, I have not hesitated to humbly commend the petition of the cleric Francis Xavier Mang to the clemency of Your Holiness."

Synopsis of the Discussion. Although, according to the opinion of some doctors, to whom Ferraris, in *Irregularitates*, art. i, n. 1, seems to agree, those who are vitiated in the body are not irregular, nevertheless!

[*Latin ed. p. 382*]

382 In Aosta, ut ministeria digna, scilicet sine scandalo, admiratione, vel risu fidelium, degere possint, est necessarium; attamen, doctrina communior et receptior, quam tenet Reinfeastuel, lib. 5, tit. 37, 54, n. 83, est, nimirum corpora viciata esse semper irregulares, et eos inter certos recenseri caecutientes, atque a fortiori uno altero oculo carentes. Emissis Patribus remissum fuit statuere quid expediret aut deceret in proposito, stante irregularitatis defectu; animadvertendo etiam quod clerico et parentibus eius beneficium insignem ex gratia certe afferretur, gratum quoque fieret Episcopo, et forte utile id erit Dioecesi. Qui profecta tituli ad gratiam non aspernabiles sunt. Quoad disciplinam, S. C. O. notatum fuit, in Florentina, 19 Aprilis 1823, gratiam dispensationis et habitationis ad omnes ordines suscipiendos, usque ad presbyteratum inclusive, concessam fuisse clerico, sinistro oculo, qui canonis dicitur, carente; ac similiter prorsus factum esse in analogo casu Hydruntinae, 21 Februarii 1824. At vicissim, in Vercelli, 28 Iulii 1860, clerico qui ob debilitatem visivae vis in missali legere non poterat, quamvis coecus non esset, et commendaretur valde ab Archiepiscopo, responsum est: Non expediret. Similiter, clerico qui de se fatebatur: "Omnes res videre possum quas sani vident; sed parum distincte, ac clare, hinc etiam in legendo litteras paulo maiores et latiores distinguere possum," die 13 Septembris 1862, in una Colonien, S. O.

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O. respondit: Quoad ordines sacros, non expediret. Quibus praemissis, quaesitum fuit quid esset precibus respondendum. RESOLUTIO. Sacra O. O. re perspecta sub die 10 Septembris 1887, censuit respondere: Pro gratia, facto verbo, cum SSmo. 1.

[*Latin ed. p. 383*]

38. ACT CONCERNING THE COMMUTATION OF THE WILL OR THE CONSTITUTION OF THE SACRED PATRIMONY. Dated 10th of September, 1887. Through summary petitions... Joseph Aitarci, a young man who, for several years, has been devoted to the service of the parish church of Nasciaro in the Diocese of Melevitana, and who burns with the desire to embrace an ecclesiastical state, approached the Holy See, stating the following: Two priests from Borg, who are his relatives, had, some years ago, left a legacy of Mass offerings, which originally yielded 180 *libellae*, but now yields 260. This increase in revenue is to be attributed to the efforts of the administrator, who was the brother of the aforementioned priest, and who is now deceased. In view of this, he requests that an annual pension of 80 *libellae* be assigned to him from this legacy, under the title of the Sacred Patrimony. The Apostolic Administrator, having been consulted for information and his opinion, and after hearing those who have an interest in the matter, responded that the petitions are based on truth, that the current administrator of the legacy favors the petition, and that he himself, considering the poverty of the aforementioned priest, recommends the request, provided, however, that he must cease to receive the aforementioned pension as soon as he is provided with another source of income.

SUMMARY OF THE CASE. SYNOPTIC DISCUSSION:

WHAT IS IN FAVOR OF THE PETITIONER: From what has been narrated, it is clear what favors the petitions: the petitioner's poverty, his kinship with the founders of the legacy, the merit he has acquired in the service of the Church, the favor of the administrator and the Ordinary, and the modest request of 80 *libellae*, which does not exceed the increase in revenue that is currently obtained from the legacy through the efforts and industry of the aforementioned priest's brother. Indeed, all these things suggest and merit grace. To these, one must add any change of will, if any exists.

[*Latin ed. p. 384*]

384. The case of Melelevana, for a time only, appears to be beneficial, and contributes to the good of the community, namely, to the formation of a priest. WHAT IS OPPOSED TO THE ORATOR. But, conversely, when it is said that the brothers Borg left a legacy of masses, it is clearly understood (although this is not expressed in the prayers) that they left a fund, the fruits of which, whatever they may be, are to be applied to the celebration

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of masses. Therefore, the fluctuation of the income of the legacy seems to be irrelevant; and if, under the administration of the orator, the legacy of Fondi yielded more abundant fruits, it does not follow that merit should be denied to the administrator; however, it does not follow that such an increase can be converted to various and arbitrary uses. For the fruits are additions to the property, or "what the property yields"; and in legacies, they are due and accrue to the legatee, or to the pious cause for which the legacy was established, according to law 11 De fund. inster.* and from the established principles that "property yields fruit to the Lord" and "fruits increase the inheritance," L. 2 Cod. De petit, haered. Therefore, there can be no doubt that all the fruits of the pious foundation of the brothers Borg, even those that have increased, must be applied to the celebration of masses. When, however, the orator requests a pension of 80 livres for the purpose of the sacred patrimony, he prays for a sum free from all burdens; hence, a reduction of the masses to be celebrated will necessarily occur, and a violation of the will of the pious founders. But a pension of 80 livres is such a meager sum that it does not deserve the name of patrimony, nor does it provide a real means of support for the priest to live honorably in any way. If the law of the legacy permitted this, perhaps it would be more useful to assign the legacy itself, as a benefit, to the orator in the title of ordination, with the condition that it should satisfy the burdens of the masses, either directly or through another, according to the intention of the founders. But to detract from the testator's will in such a serious matter, without, conversely, achieving what is intended, namely, the real maintenance of the priest, may perhaps seem inappropriate.

[*Latin ed. p. 385*]

MELELEVAN 385 Having considered these matters, the question was raised as to what response should be given to the petitions. RESOLUTION. The Sacred Congregation, having been informed on September 10, 1887, decided to respond: "It does not seem expedient." REJOINDER. REGARDING THE REDUCTION OF THE PENSION. On December 17, 1887, through a summary of petitions, the Chapter of the metropolitan church of Reggio was obligated to pay a pension of 680 *libellae* to the archpriest of the parish, known as the *protopapa*, who resided at St. Dominic's. However, for the reasons presented below, which the Bishop declares to be true and commends, the same Chapter requested that this pension be reduced to 340 *libellae*. The metropolitan Chapter had obtained the abbey of St. Martin of Calanna from King Ferdinand IV in 1788 to increase its endowment; however, the King reserved two hundred ducats from its revenues, first in favor of a certain Joseph Marra, who had defended the King's rights in the abbey before the Holy See, and then in favor of the aforementioned *protopapa*, who at that time held the highest office in the collegiate and parish church of St. Mary of the

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Greeks at Cattolica. In order to obtain this pension, he had promised, among other things, to rebuild the church, which had collapsed due to severe earthquakes in 1783. He did not fulfill this promise, and the church was not rebuilt. Indeed, the collegiate body, along with its archpriest, had to take refuge first in a wooden chapel, and then in the church of St. Dominic's, which was built with funds from the municipality; and there it remains to this day, although it was first suppressed by the French government and, after the restoration, again by the Italian government. Furthermore, the archpriest, whose parochial benefice has remained intact, has an income of 6557 *libellae*. Conversely, COMPENDIUM OF THE AGREEMENT; 1 Acts, Vol. XX, page 306.

[*Latin ed. p. 386*]

38G The canonical prebends, which formerly were more lucrative, now, after the conversion carried out by the governing body, according to established practice, amount to approximately 680, including the distributions themselves. These revenues are entirely insufficient for the proper maintenance of the lives of the canons, while the protopope abounds in wealth. Two other circumstances must also be considered: first, the archpriestly prebend is currently vacant; second, it is under the patronage of the King. Therefore, since difficulties could arise against the granting of the dispensation, the Ordinary was again requested by the Holy Congregation, who replied that there was nothing to fear from the Oeconomus, which had thus far shown itself to be favorable to the Chapter; moreover, the protopope would certainly have to obey the dispositions of the Apostolic See. And therefore, I believe, the request of the canons should be received favorably.

A Synopsis of the Discussion. THE GRANTING OF THE DISPENSATION SEEMS TO BE DENIED. From what has been narrated, it becomes clear that difficulties of two kinds could arise against the granting of the dispensation: first, the pension granted to the archpriest by the King was established upon the goods of the Abbey of St. Martin, which are ecclesiastical goods, although it seems that he had free disposal of them; and this pension was not so much like a temporary subsidy, but rather like a perpetual augmentation of the endowment of the archpriestship. Therefore, the matter today is not so much about reducing the pension, but about changing the beneficial endowment; which is not usually done without a serious reason, nor is it advisable. Second, the prebend which is now vacant exists, and therefore a well-known rule of law prohibits any innovation. Especially since the instrument by which the King granted the pension is hidden, and therefore even the terms of that concession are unknown.

THE GRANTING OF THE DISPENSATION SEEMS TO BE APPROPRIATE. But, on the other hand, it is necessary to consider that the pension granted to the archpriest was given on a day of great need, namely, to

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restore the collapsed church, which...

[*Latin ed. p. 387*]

REGINEN. 387, he himself never fulfilled the cause; therefore, it seems just that he should either be dismissed or deprived of his office, given the benefit of a pension; 2° the pension should be paid by the chapter from the revenues of the abbey of St. Martin: which revenues were formerly abundant and were divided among 24 canons; but now, since the abbey has been usurped by the royal government and public taxes have been substituted in its place, the revenues are smaller and are distributed only among 12. Therefore, it seems just to request a proportionate reduction in the pension. Moreover, 3° the archpriest would scarcely suffer any appreciable loss, since he would still retain a very substantial and appropriate income; and a considerable sum would be returned to the metropolitan chapter. With these premises, the question was raised as to what should be answered in response to the petition. RESOLUTION. After the Holy Office was informed, on December 17, 1887, it decided to respond as follows: "For the sake of merit, by the authority of the SACRED CONGREGATION CONCERNED WITH THE CULT OF SAINTS, VIRTUES, AND MIRACLES, AND ALSO WITH MATTERS RELATING TO THE CAUSE OF CANONIZATION OF BLESSED PETER CLAVER, CONFESSOR, PRIEST, MEMBER OF THE SOCIETY OF JESUS. Blessed Peter Claver can rightly be compared to Francis Xavier in his zeal for the propagation of the Christian religion, to Blessed John Berchmans in his innocence, and to Blessed Alfonso Rodriguez in his penance, from whom he received instruction in the more profound mysteries of sanctity. He was born in the town of Verdun in Catalonia, and was baptized on the twenty-sixth of June in the year 1580. His parents were Peter and Anne Soborana, who were distinguished both by their noble lineage and by the praise of Christian virtues. They raised Peter with particular care, and from this, especially after the proper time of childhood, they clearly understood that they were raising a saint. For he possessed the best and most gentle disposition, the utmost modesty and gravity of character, and especially..."

[*Latin ed. p. 388*]

388 From his very childhood, a remarkable and, beyond all doubt, divinely inspired inclination towards heavenly matters was clearly evident. As a young man, sent to Lodi by his father to pursue his studies, he excelled in grammar and rhetoric under the discipline of the Fathers of the Society of Jesus, displaying a truly exceptional talent and progress. He exhibited such outstanding examples of Christian virtues that the fame of this excellent young man reached the Bishop of Barcelona, who gladly welcomed him into ecclesiastical service. Subsequently, on August 7th of the year 1602, he entered the Society of Jesus, which he had desired from his youth. The

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records of the Society bear witness to the kind of person Peter was during his novitiate: he came not to learn, but to teach, and this saintly young man was seen by all, even those more experienced, as a teacher. Therefore, the superiors instructed the other novices to emulate his example, focusing solely on the fact that his excessive zeal, prolonged prayer, or fasts and severe flagellations might harm his health. After completing his two years as a novice, in 1604 he pronounced his simple vows. Afterwards, after spending some months in Gerunda, intending to devote himself to philosophy, he died in Majorca. There, he met Blessed Alphonsus Rodríguez, and, not without divine inspiration, he requested the superiors to allow him to converse and associate with him. From this encounter, Peter derived such fruits of piety that God Himself deigned to reveal to Alphonsus: he saw Peter, his disciple, about to occupy a most important and glorious place "in the heavens"! When he inquired from the heavens what the cause of such great merit and glory might be, he received this answer: that Peter had earned this reward, both through the virtues he had practiced up to that point, and through those he would practice in the regions of America, among the most unfortunate people, who had been transported there through the greatest injustice. Having received this vision, Alphonsus devoted all his efforts to persuading Peter to return to those regions; however, this was not possible until the year 1610, when Father Claudius Acquaviva, the Superior General of the entire Order, set out for the Kingdom of New Granada with a group of outstanding missionaries, and considered Peter, although he had not yet been ordained a priest. Anyone can easily imagine the joy that Peter felt upon receiving this news, given his fervent desire to bring souls to Christ. Therefore, he spoke to his companions and, first of all, to Alphonsus...

[*Latin ed. p. 389*]

From the Sacred Ritual, number 389, he departed, not without tears, in April of the aforementioned year, and after a long voyage, he arrived at Cartagena, in the same year. Cartagena, among the principal cities of South America, flourishes with a most convenient and sheltered port, where merchants from India (which the Westerners still call by that name) converged, to sell their wares, and especially slaves, from the region where they originated, known as the Negroes, who were bought for almost nothing, and were sold for very high prices, to be subjected to the hardest of labors, and especially to the mining of metals, with no regard whatsoever for Christian charity, but even for human decency. Our Claverius embraced these most miserable people, who were often abominable in their depravity of mind and body, and who were filled with hatred towards their torturers, with such profound charity, that he may rightly be called their Apostle and father. He began his apostolic work three years later, when he returned to Cartagena from the city which is called by the Holy See, where, after completing his studies in Theology, he received the Sacrament of Holy

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Orders on March 19, 1616. In Cartagena, after his return, he remained until his death, that is, for sixty-four years, dedicated primarily to converting the Negroes and to fostering them in the Catholic faith. How much he accomplished in this regard, with such virtue and with such incredible achievements, both in terms of difficulty and in terms of scope, can scarcely be said. It suffices to note that he baptized with his own hands more than three hundred and fifty thousand people of that kind, and that he subsequently, both by example, by sermons, and by constant and careful administration of the Sacraments, not only kept them in the faith, but in some way encouraged them to cherish it. And at times, as was necessary, he used threats and punishments, following the Apostle who says in the beginning of his First Letter to the Corinthians: "In chastisement I will come to you, but in charity and the spirit of gentleness." And to Titus he says: "Reprove them sharply." This, the Church has confirmed both by doctrine and by constant examples, against heretics and those who seek to corrupt the morals of men with license and impunity, and to destroy the religion, and therefore society. Thus, the severity of Peter was just as beneficial to the Negroes as his kindness, and they loved and revered him with both. Furthermore, to the man's authority were added not only a multitude of virtues, but also such an abundance of supernatural charisms, as were granted to few even among the Saints. For who...

[*Latin ed. p. 390*]

390 Let us count the miracles performed by this illustrious man, the prophecies, the raptures, and the brilliant light that so often surrounded his body, whether he offered the Holy Sacrifice, preached, or finally cleansed the festering wounds of the Nigritians. For it was the most holy man's love for Christ and his neighbors, and also his remarkable zeal for penance, that, not once or twice, as we admire in the lives of the Saints, but very often, impelled him to these actions. Indeed, even though he primarily cared for the Nigritians, he did not neglect the Carthaginians, so that he deservedly earned the title of Apostle to them. It would take too long to recount the countless and great benefits he conferred upon them, bestowed by Claverio; we can briefly summarize this by stating that he earned, concerning the Carthaginians, as much as Philip Neri earned concerning the Romans, as is clearly shown from the records of the Cause. He also earned the same concerning the heretics and Mahometans, who frequented Carthage, a very busy port, as we have said, either for trade or because captives were transported there. He brought many of these people, even among the leaders, to Christ, and not once did his presence alone overcome their obstinacy. Given these things, we seem to compare this outstanding man, without impropriety, to Francis Xavier, both in the magnitude and the difficulty of his endeavors. Nor is there a great distance between him and that saint in terms of the most rigorous penance, or the constant union he main-

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tained with God. He almost abstained from food, and also from sleep; for he almost spent entire nights in prayer, sometimes enduring even bloody beatings, and he was accustomed to begin his apostolic labors at the very early morning, not without a miracle, with complete energy and zeal. But if anyone doubts that the perfect innocence of his life and the most faithful observance of the rules of his Order can be compared to that of Blessed John Berchmans, let him know that he endured such hardship to his body so that not only would he restrain the impulses of sinful desires, but also extinguish them. Let him know that he undertook none of those glorious works unless, first, he had detected the head, and most devoutly asked for the permission of his Superiors to serve them. He continued to do this even when all who frequented Carthage, whether nobles, citizens, inhabitants, or even barbarians, regarded him as an oracle of wisdom, and as a kind of dwelling place of virtue, and admired him. But now, the glorious hero enters the final stage of his life. In the year 1650, which was a jubilee year, Peter...

[*Latin ed. p. 391*]

Moved by the pestilence which was spreading widely, he devoted himself more intensely to his apostolic labors, but also to penance, in order to appease divine wrath. Though afflicted by the plague, he was not consumed by it, but rather, he was so afflicted that for more than four years he was subject to the most grievous illnesses. He endured these with the greatest patience in the most desolate solitude. For at that time, all were either sick or caring for the sick; but the brethren, if they had not contracted the disease, attended to the sick. Therefore, a certain Negro, a man of the worst and most cruel character, abandoned to his care, not only suffered hunger, but also insults, abuse, and blows. He endured these gladly, seeing the Crucified Christ and the grieving Mother of God, and rejoicing that he, like them, was being made similar, and thus possessed a certain guarantee of heavenly glory. Meanwhile, because he could no longer perform his sacred duties due to his weakness, he often rejected the food offered to him; and every day he made amends for his sins with abundant tears. As much as he could, he was transported to the church, where he received the confessions of the faithful, and he worked to promote the salvation of the Negroes. Therefore, when he learned that many of these, almost entirely devoid of humanity and religion, had arrived from Ararat in Carthage, he, almost forgetting his own sufferings, was filled with joy, and he took care to lead them to himself. When they saw the man, they, by divine inspiration, knelt before him and venerated him. Shortly afterward, on August 22, 1654, Father Didacus Ramirez, an Apostolic missionary, arrived from Spain in Carthage, to succeed Peter; and when he learned of his arrival, he rejoiced. For the Negroes, of whom he declared himself a servant, and whom he loved with the greatest charity, he believed that the advice of

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so great a man would be very beneficial. But he himself, from the arrival of his successor, was forewarned that he would soon occupy that glorious seat in heaven, which Blessed Alphonsus had foretold to him, due to the triumphs he would achieve in India, for the greater glory of God, and for the successful conversion of infidels and heretics. Since the mention of this great man recurs, it is not inappropriate to note that, by divine goodness, a portrait of his life, with a very similar likeness, appeared to Peter shortly before his death. When he saw it, he exclaimed with tears: "I have nothing more to desire on earth; now I must go straight to heaven." And heaven is...

[*Latin ed. p. 392*]

392 According to the established rites, as he had foretold, the Servant of God passed away on September 8th, the feast of the Nativity of the Most Blessed Virgin, in the year 1684. It is scarcely possible to express how deeply the death of so virtuous a man affected not only Cartagena, but also the neighboring cities, and all of Hispania, when the mournful news reached them. The sight of his body was most beautiful, serene, and emitted a most pleasant fragrance. A crowd of citizens from all walks of life gathered; and soldiers were present, lest the crowds, prone to disorder, become unruly. Furthermore, when the Rector of the College modestly arranged to honor the Servant of God with funeral rites, as is the custom of the Society of Jesus, he was vehemently opposed by the Prefect of the city, the Municipal Council, and all the nobles, who considered it fitting to celebrate the funeral of the holy man with a ceremony worthy of a royal procession. The Prefect and his officials, dressed in ceremonial robes, were present, as were the Senatorial Order, the Clergy, the Religious Orders, and the Inquisitors. The University of Nigritians also did not fail to perform their duty, rendering fitting funeral honors to this great benefactor with a solemn procession and great expense. Subsequently, accounts of his virtues and miracles were compiled, and the Ordinary processes were initiated in Cartagena. Once these were completed, and all that which must precede the introduction of the cause, as our law requires, had been fulfilled, on August 1st of the year 1694, in the Sacred Congregation of Rites, after a discussion regarding the admission of the cause and the approval of the Signatura Commission for the introduction of the cause, the same Congregation responded affirmatively, if it pleased the Most Holy [See]. On August 21st of the same year, the Most Holy Pope Innocentius X approved the Signatura Commission with great kindness. Subsequently, on October 3rd of the year 1698, letters of referral were sent to the Bishop of Cartagena, authorizing the institution of an apostolic process; after these were duly approved and the documents examined, the question of his heroic virtues could finally be discussed. The preliminary Congregation was held on January 30th, 1742; the preparatory Congregation on November 20th, 1743; and finally, the General Congregation, before the Most Holy Pope Benedict XIV, on August

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22nd of the year 1747. Once these matters were concluded, the same Pope, after fervent prayers offered to God, on September 24th of the same year, after the celebration of the Sacred Rites, handed to the Secretary of the Sacred Congregation of Rites, for him to keep among his records, a decree signed by his own hand: It is indeed established that the virtues of Faith, Hope, and Charity towards God and neighbor, and the Cardinal virtues of Prudence, Justice, Fortitude, and Temperance, together with their corresponding virtues, were present in a heroic degree, in every circumstance, and to the effect of the matter under consideration. Subsequently, the question of miracles was discussed, first in the preliminary Congregation.

[*Latin ed. p. 393*]

From the Sacred Congregation of Rites, convened on the fourth day before the Ides of March in the year 1834, before the Most Reverend Charles Mary Cardinal Pedicini, Relator of the Cause; afterwards in the Preparatory Congregation in the Apostolic Palace at Quirinal on the third day before the Ides of August in the year 1840; and finally in the general meeting on the eleventh day before the Kalends of September, in the year 1848, before His Holiness Pope Pius IX, where the Most Reverend Cardinal Patrizi, also Relator of the Cause, proposed the doubt, and concerning which miracles it could be affirmed in the case, to which the Reverend Cardinals and other Fathers gave their votes. After these things were heard, the Most Holy Pope, addressing the most numerous assembly with most kind words, and urging all to pray, that so weighty a matter might be carried out for the greater glory of God, a little later, namely on the Sunday, the eleventh day after Pentecost, after the celebration of the feast of the Martyr Saint Pantaleon, having summoned to him the Most Reverend Cardinals Aloysius Lambruschini, Bishop of Oporto, and Rufina and Centumcellae, Prefect of the Sacred Congregation of Rites, and Constantino Patrizi, Vicar of the City, also Relator of the Cause, together with the Reverend Fathers Andrea Maria Frattini, Promoter of the Faith, and Joseph Caspar Fatati, Secretary of the Sacred Congregation of Rites, solemnly pronounced: That two miracles of the third kind, wrought by God, are established, through the invocation of the venerable Peter Claver: namely, the first: the sudden and perfect healing of the girl Mary of Torres, from an old aneurysm which had caused a large swelling in her right arm, due to blood flowing into the artery; the second: the instantaneous and perfect healing of Michaela Gar sia of Saavedra, in the third month of pregnancy, who was afflicted with a dangerous inflammation of the womb, with lethal symptoms. This decree, at the order of the same Holiness, was recorded in the Acts of the Holy Congregation on the sixth day before the Kalends of September of the same year. After these things were completed, nothing remained except that the Fathers of the Sacred Congregation of Rites should be asked whether it was safe to proceed with the beatification of the Venerable Peter

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Claver. But since all responded with great agreement in the affirmative; His Holiness Pope Pius IX, after a slight delay, to implore heavenly light, then, on the Sunday of the Most Holy Trinity, in the chapel of Pope Sixtus IV in the Vatican Basilica, having summoned to him the aforementioned Cardinals Aloysius Lambruschini and Constantino Patrizi, and also the aforementioned Prelates, the Reverend Father Andrea Frattini, Promoter of the Faith, and John Caspar Fatati, Secretary of the Sacred Congregation of Rites, pronounced.

[*Latin ed. p. 394*]

394 FROM THE SACRED CONGREGATION, concerning how it is possible to proceed to the beatification of the Most Venerable Servant of God, Peter Claver, and He ordered that Apostolic Letters, in the form of a Brief, concerning said beatification, be issued for celebration in the Patriarchal Basilica of the Vatican at its proper time. This Decree was recorded in the Acts of the Sacred Congregation, by order of the same Pontiff, on the seventh day before the Kalends of June in the year 1850. Subsequently, on the twenty-first day of September in the year 1857, the solemnities of the beatification were splendidly celebrated in the Vatican temple; and as news of new miracles spread, in the following year, on September 30th, the resumption of the cause for canonization was decreed by Apostolic authority. After these events, concerning two miracles, which were said to have been obtained through the intercession of the Saintly Man, the Metropolitan Archbishops of the Dioceses of Philadelphia and Milwaukee were granted the faculty of instituting Apostolic processes, which were brought to Rome, and opened on the fourth day of April in the year 1867; and when, in the following year, a process instituted in the Diocese of St. Louis was also brought to the City, it was approved, together with the others, on the fifteenth day of April, 1869. However, the cause remained pending until the year 1885, at which time, with all that which was required by law duly completed, and with certain privileges obtained by Apostolic authority, which seemed necessary for the more expeditious examination of the cause, the way was prepared for the legitimate investigation of the miracles. The first of these concerned a certain Barbara Dressen, who was born in Germany, and who had traveled to Milwaukee, in the United States, in search of a better life. There, until the year 1850, she had enjoyed excellent health, when a certain growth appeared on the right side of her jaw, which was undoubtedly an indication of a very serious impending illness. The doctors judged that cancer would develop from it: a conjecture which was soon confirmed by the intense pain that arose immediately from the growth, and by the subsequent horrible ulceration. When the doctors confirmed that no human remedy could be applied to this disease, Barbara turned to Blessed Peter Claver, whose fame for miracles was also well known in that place. And she did not turn in vain: for, while the Reverend Father Francis

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Xavier Weninger, of the Society of Jesus, was praying, Barbara experienced some relief after touching the relics of Peter. However, shortly thereafter, the illness worsened so much that all who saw the terrible and almost completely devastated jaw, and who could not bear the noxious and foul odor, were filled with pity for Barbara.

[*Latin ed. p. 395*]

From the Sacred Rituals, 395: Barbara, however, did not lose hope, and she continued to commend herself to her Patron with certain confidence, trusting that, through his intercession, she would eventually obtain health. And the outcome did not disappoint her: for in the year 1861, after ten years of suffering from the disease, she was again, with the blessing of Father Weininger, touched by the Relics of the Blessed Peter, and she was completely healed, and her right jaw, which had previously been injured and disfigured by a terrible wound, appeared to all to be not only healed, but, beyond the age of a woman, perfectly healthy and flourishing.

However, we ought to marvel even more at the healing of Ignatius Strecber. This man, also of German nationality, had emigrated to America in order to earn his living through his own labor. In the year 1861, when he was a soapmaker in the city named after Saint Louis, while engaged in his craft, he was struck in the chest by a piece of iron, so that it soon appeared that his sternum was injured. From the sternum, the illness spread to his ribs; then, as is the case, to his lungs, which was clearly indicated by violent and purulent expectorations. Therefore, all the doctors who saw him considered him to be afflicted with a severe and widespread disease of the chest and lungs, and they despaired of his recovery. Meanwhile, Ignatius' wife urged him strongly, both through prayers and through accounts of marvelous and recent events, to commend himself to the Blessed Peter. When the sick man willingly did this, and, already very weak and almost unable to walk, presented himself in the church where Father Weininger, with the Relics of the Blessed Peter, prayed fervently and with great benefit for the sick and afflicted, he was seen to be so restored by the touch of those same Relics that he was completely healed, and he immediately endured all his labors without any discomfort, and in them, for many years, he persevered in excellent health and vigor.

These miracles were discussed first in a preliminary meeting with the Most Reverend Cardinal Dominic Bartolini, Prefect of the Congregation of Sacred Rites and Relator of the Cause, on December 13th of the year 1885; then in the preparatory meeting, in the Vatican buildings, on May 6th of the following year, 1887; and finally, in the general assembly, also in the Vatican buildings, before His Holiness Pope Leo XIII, on August 5th of the same year. In these meetings, when the Most Reverend Cardinal Aloysius Serafini, in the absence of the aforementioned Cardinal Relator, proposed the question: "Concerning which miracles does it consist in this

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case, and to what effect do they pertain?" the Most Reverend Cardinals and the Consultor Fathers openly expressed their opinions.

[*Latin ed. p. 396*]

396 FROM THE SACRED CONGREGATION. After carefully considering the opinions of those involved, the Most Blessed Father decreed that, after offering the most humble prayers to God, he would, at an opportune time, express his judgment regarding the matter. Finally, on the festive day celebrating All Saints, after the Holy Sacrifice had been offered, the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Miecislaus Ledochowski, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Sacred Faith, and the Reverend Father Lawrence Salvati, Secretary of the same Sacred Congregation, were summoned to the noble hall of the Vatican Palace. There, solemnly, he announced: "It has been established that two miracles, brought about by the intercession of the Blessed Peter Claver, have occurred: namely, the first, the instantaneous and perfect healing of Barbara Dressen, an octogenarian woman, from an old cancer of the epithelial tissue in the right jaw; and the second, the sudden and perfect healing of Ignatius Streker, who was afflicted with a severe lung disease, combined with caries of the sternum and ribs of the left thorax. This Decree was ordered to be made public and to be entered into the Acts of the Sacred Congregation of Rites on the first of November of the year 1887. Furthermore, what remained to be done was convened on the seventeenth day before December of the same year in a general meeting of the Sacred Congregation of Rites, held in the Vatican Palace, at which the Most Reverend Cardinal Miecislaus Ledochowski, Relator of the Cause, proposed the question: "Can we safely proceed to the solemn canonization of Blessed Peter Claver, now that the approval of two miracles has been granted after the granting of veneration?" To which, all those present, both the Most Reverend Cardinals and the Consultor Fathers, responded with one voice: "It is safe to proceed." After carefully considering these opinions, and after imploring heavenly light, on the fifth day before the aforementioned month, after the Holy Sacrifice had been offered, the Holy Father, Pope Leo XIII, summoned the Most Reverend Cardinals Angelo Bianchi, Prefect of the Sacred Congregation of Rites, and Miecislaus Ledochowski, Relator of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Sacred Faith, and the Reverend Father Lawrence Salvati, Secretary of the same Sacred Congregation; and, in their presence, he solemnly declared: "It is safe to proceed to the solemn canonization of the Blessed Peter Claver, and he ordered that the Apostolic Letters be prepared to be issued, for its celebration whenever it may be

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deemed appropriate."

[*Latin ed. p. 397*]

FROM the section of the Ritual, number 397: "May those things which have been so long desired, so that for the greater glory of God, and for the propagation of the Christian Faith, may, through so great an intercessor, finally be attained with ease, the illustrious Society of Jesus prays and begs."

FROM the DECREE of the Most Holy Congregation of the Holy Roman Inquisition, whereby several propositions from works recently published under the name of Anthony Rosmini are condemned.

"To His Eminence, these letters are transmitted along with the aforementioned decree, by which the Supreme Congregation of the Fathers, together with the General Inquisition, with the approval and confirmation of His Most Holy Lord Leo XIII, condemns and prohibits several propositions from works which have been published under the name of Anthony Rosmini Serbati. Therefore, the pastoral care and vigilance of Your Eminence are aroused, that you may most diligently protect the sheep of your flock from these condemned doctrines; and that, if there should be anyone in this Diocese who still favors them, you may strive to persuade them to receive the judgment of the Holy See with a docile spirit. Above all, you must endeavor that the minds of the young, especially those who are nurtured in the hope of the Church in the Seminary, may be imbued with the doctrine of the Catholic Church, drawn from the pure sources of the Holy Fathers, the Doctors of the Church, approved authors, and especially the Angelic Doctor, Saint Thomas Aquinas. In the meantime, I pray for all good and happy things for you from the Lord. Given in Rome on the 7th of March, 1888.

Your most devoted servant in the Lord, R. CARDINAL.

Monaco, the 14th of December, 1887.

After the death of Anthony Rosmini Serbati, certain writings appeared bearing his name, in which several heads of doctrine, the seeds of which were contained in the earlier books of this Author, are more clearly developed and explained. This matter, through more careful study,

[*Latin ed. p. 398*]

398. From the Sacred Congregation, men of great eminence in theological and philosophical disciplines, and also of the Sacred Orders within the Church, presented certain propositions. These men extracted not a few propositions, which appeared not to be in harmony with Catholic truth, especially from the posthumous writings of the aforementioned author, and submitted them to the judgment of the Most Holy See. Furthermore, the Most Holy Pope Leo XIII, to whom it is of the greatest concern that the deposit of Catholic doctrine be preserved pure and free from error, ordered that the propositions presented be examined by the Sacred Council

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of Fathers Cardinals throughout the Christian republic, by the General Inquisitors. Therefore, according to the custom of the Supreme Congregation, after a most diligent examination, and after comparing the propositions with the other teachings of the author, as they are most clearly evident from his posthumous writings, the propositions that follow were judged to be to be condemned and prohibited in the author's own sense, as is decreed in this general decree; and from this, it cannot be permitted to anyone to deduce that the other teachings of the same author, which are not condemned by this decree, are in any way approved. After all of this had been carefully reported to the Most Holy Pope Leo XIII, His Holiness approved the decree of the Fathers, confirmed it, and ordered that it be observed by all.

I. In the order of created things, something divine is immediately manifested to human intellect, namely, something that pertains to the divine nature. 1. Within the sphere of creation, something of the divine is immediately manifested to human intellect, namely, something that belongs to the divine nature (Theosophy, Vol. IV, no. 2, p. 6).

II. When we say "divine" in nature, we do not use the word "divine" to signify a non-divine effect of a divine cause; nor is it our intention to speak of a certain "divine" that is such by participation. 2. When we say "the divine in nature," we do not take the word "divine" to signify a non-divine effect of a divine cause. For the same reason, it is not our intention to speak of a "divine" that is such by participation (Ibid.).

III. Therefore, in the entirety of nature, that is, in the intelligence that is within it, there is something to which the designation "divine" applies, not in a...

[*Latin ed. p. 399*]

FROM S. G. INQUISITIONIS 399, figuratively but properly. - It is an actuality not distinct from the rest of the divine actuality. 3. Therefore, there is something in the nature of the universe, that is, in the intelligences that are within it, to which the denomination of divine is fitting, not in a figurative sense, but in a proper sense - (Theosophy, Vol. IV, section nella, number 15, pages 18-19). - And it is an... actuality indistinguishable from the rest of the divine actuality, indivisible in itself, divisible by mental abstraction - (Theosophy, Vol. III, number 1423, page 344). IV. That which is indeterminate, which is undoubtedly known to all intelligences, is that which is divine that is manifested to man in nature - (Theosophy, Vol. IV, numbers 5 and 6, page 8). 5. That which is intuited by man must necessarily be something of a necessary and eternal being, the creating cause, determining and perfecting all contingent beings: and this is God (Theosophy, Vol. I, number 298, page 241). 6. In that which transcends creatures and God, which is the indeterminate being, and in God, that being which is not indeterminate, but absolute, there is the same essence

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(Theosophy, Vol. II, number 848, page 150). 7. The indeterminate being of intuition, the initial being, is something of the Word, which the mind of the Father distinguishes not really, but according to reason, from the Word - (Theosophy, Vol. II, number 848, page 150; Vol. I, number 490, page 445). 8. Finite beings, of which the world is composed, result from...

[*Latin ed. p. 400*]

400. From the Sacred Inquisition, two elements are considered: namely, the real and finite term, and the initial being, which confers form upon that term as a being.

8. The finite entities that compose the world result from two elements, namely, the real and finite term, and the initial being, which gives this term the form of a being – (Theosophy, Vol. I, no. 6, p. 396).

9. Being, as the object of intuition, is the initial act of all beings. The initial being is the beginning of both knowable things and subsistent things; it is likewise the beginning of God, as He is conceived by us, and of creatures.

10. Being, the object of intuition... is the initial act of all beings – (Theosophy, Vol. III, no. 1235, p. 73). The initial being, therefore, is the beginning of both the knowable and the subsistent... it is equally the beginning of God, as He is conceived by us, and of creatures – (Theosophy, Vol. I, no. 287, p. 220; no. 288, p. 230).

11. The quiddity (that which a thing is) of a finite being is not constituted by what it possesses positively, but by its limits. The quiddity of an infinite being is constituted by being itself, and is positive; the quiddity of a finite being, however, is constituted by the limits of being, and is negative – (Theosophy, Vol. I, no. 726, pp. 708-709).

12. Real finitude does not exist in itself, but God makes it exist by adding limitation to reality. The initial being is the essence of every real being.

[*Latin ed. p. 401*]

From the Sacred Inquisition, 401: That which actuates finite natures, being joined to them, is severed from God.

12. Finite reality is not, but He (God) makes it to be (to add to infinite reality the limitation [Theosophy, Vol. I, n. 681, p. 658] - The initial being... becomes the essence of every real entity [Ibid., Vol. I, n. 458, p. 399] - The being that actuates the finite natures, being joined to these, being severed from God... [Ibid., Vol. III, n. 1425, p. 346]).

13. The distinction between absolute being and relative being is not that which exists between substance and substance, but a much greater one; for there is a difference of being in this sense, that one is absolutely being, and the other is absolutely non-being. But this second is relatively being: now, by positing a relative being, the absolute being is not multiplied; thus it remains that absolutely the absolute and the relative are not one substance,

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but one being, and in this sense there is no difference of being, but rather unity of being (Theosophy, Vol. V, Cap. IV, p. 9).

14. By divine abstraction, the initial being is produced, the first element of all entities; by divine imagination, the finite real is produced, or rather, all the realities of which the world consists (Theosophy, Vol. I, n. 463, p. 408).

15. The third operation of absolute being in creating the world is divine synthesis, that is, the union of two elements: which are the initial being common to all united entities, and the finite real, or rather, the diverse finite realities, the diverse terms of the same initial being. By this union, finite entities are created.

[*Latin ed. p. 402*]

402 FROM THE SACRED INQUISITION: From the divine synthesis, that is, the union of two elements, the first principle, which is the common beginning of all finite beings, and the real finite, or, to speak more precisely, the diverse real finite things, are different terms of the same initial being. Through this union, finite beings are created (ibid., XVI). The initial being, referred from intelligence, through the divine synthesis, not as intelligible, but merely as essence, to the real finite terms, causes finite beings to exist objectively and really (Theosophy, Vol. I, no. 464, p. 410). XVII. God, in creating, effects only that which He places entirely within the act of being of the creatures; therefore, this act is not properly made, but is placed (Theosophy, Vol. I, no. 412, p. 350). XVIII. There is a reason within God Himself, by which He determines Himself to create; and this reason is again His self-love, which He also loves in the creatures. Therefore, divine wisdom, as we shall explain more fully elsewhere, finds it fitting to create, and this simple fitness is sufficient to cause the most perfect Being to be determined to do so. But this necessity of fitness must not be confused with the necessity that arises from the real form of Being, and which necessity is commonly called physical. The necessity of fitness is a moral necessity: that is, arising from Being under its moral form; and the moral necessity does not always produce the effect which it prescribes; but it produces it only in the most perfect Being, and not in imperfect beings (to many of whom, therefore, the bilateral freedom remains), because the most perfect Being is also the most moral, that is, has within Itself every moral requirement (Theosophy, Vol. I, no. 51, pp. 49-50).

[*Latin ed. p. 403*]

FROM THE SACRED CONGREGATION, 403, 19th century. The Word is that abhorred matter, from which, as it is said in Wisdom XI, all things of the universe were created. 19. *In principio erat Verbum*, that is, the Word is that abhorred matter from which, according to the Book of Wisdom (XI, 18), all things of the universe were created (Introduction to the Gospel

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according to John, Jez. 37, p. 109). XX. It does not contradict that the soul may be multiplied by generation; thus, it can be conceived as proceeding from the imperfect, namely, from the sensitive faculty, to the perfect, namely, to the intellectual faculty. 20. It is not contrary to reason that the subject of which we speak may be multiplied by generation (Psychology, I, 4, n. 656). We have already said that the generation of the human soul can be conceived as proceeding in progressive degrees from the imperfect to the perfect, and that before there is the sensitive principle, which, having reached its perfection with the perfection of the organism, receives the intuition of being, and thus becomes intellectual and rational (Theosophy, Vol. I, n. 646, p. 619). XXI. When the being becomes intuited by the aforementioned principle (sensitive), through this very contact, through this union with itself, that principle, which was previously only sentient, now also intelligent, is elevated to a higher state, changes its nature, and becomes intellectual, subsistent, and immortal (Anthropology, I, 4, c. 5, n. 819). Therefore, it is presented to the mind that the sensitive principle has become a rational principle, that it has been converted into another, having truly undergone such a transformation (Theosophy, Vol. I, n. 646, p. 619). XXII. It is not an impossible thought that, through divine power, the intellectual soul may be separated from the animated body, and that the body itself may remain an animal: indeed, the animal principle, which previously existed as an appendage, may remain in it, as the basis of the new entity. 22. As for the appendages of which we speak, namely, the animated body, it is certainly not impossible to think that, through divine power, the intellectual soul may be separated from it, and yet the body may remain in the quality of an animal, the animal principle, which previously existed as an appendage, remaining as the basis of the new entity.

[*Latin ed. p. 404*]

4M EX S. E. INQUISITIONIS: Concerning certain animals that remain – (Theosophy, Vol. L, p. 621, p. 591, XXIII. In the natural state, the soul of the deceased exists as if it did not exist: since it cannot reflect upon itself, nor have any awareness of itself, its condition can be said to be similar to a state of perpetual darkness and eternal sleep. 23. This (the soul of the deceased) certainly exists, but it is as if it did not exist – (Theodicy, Appendix, art. 10, p. 638). In this state (of nature), since it is not possible for the separated soul to reflect upon itself, nor to have any consciousness, its condition can be likened to a state of perpetual darkness and eternal sleep – (Introduction to the Gospel according to John, John 69, p. 217). XXIV. The substantial form of the body is rather an effect of the soul, and the internal limit of its operations: therefore, the substantial form of the body is not the soul itself. The union of the soul and the body properly consists in an immanent perception, by which the subject, perceiving the idea, affirms the sensible object, after having intuited its essence in this perception. 24. The

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substantial form of the body is rather an effect of the soul, and the internal limit of its operations: and therefore it is the soul itself that is the substantial form of the body – (Psychology, Part II, 1, 1, chap. 11, n. 849). The union of the soul with the body consists properly in an immanent perception, by which the subject, perceiving the idea, affirms the sensible object after having intuited its essence in this perception. – (Theosophy, Vol. V, Chap. LI, art. II, § 5, V, 4°, p. 377). XXV. Although the mystery of the Most Holy Trinity is revealed, its existence can be demonstrated by arguments that are purely speculative, as well as negative and indirect, in such a way that, through them, that truth is brought back to philosophical disciplines, and becomes a scientific proposition, like the others: for if it were denied, the doctrine of theosophy, pure reason, would not only remain incomplete, but would also be annihilated in every respect by absurdities. 25. The mystery of the Trinity... after it was revealed, it remains, indeed, incomprehensible in its own nature... but it is possible to know that (the existence) of a Trinity in God at least in a conjectural way, with positive and direct reasons, and demonstratively with negative and indirect reasons; and that, through these...

[*Latin ed. p. 405*]

IX. Some purely speculative arguments concerning the existence of the most august Trinity: This mysterious doctrine falls within the realm of philosophy. The existence (of the Most Holy Trinity) becomes a scientific proposition, like others. But if one were to deny that Trinity, absurd consequences would arise from all sides, openly... Therefore, one must either admit the divine Trinity, or abandon the theosophical doctrine of pure reason, which is not only incomplete, but also contradicts itself in every way, and is torn apart and utterly nullified by inevitable absurdities (Teos, Vol. I, nos. 191, 193, 194, pp. 155-158).

XXVI. The three supreme forms of being, namely subjectivity, objectivity, sanctity, or, to put it differently, reality, ideality, morality, if transferred to absolute being, cannot be conceived otherwise than as subsisting and living persons. The Word, insofar as it is an object of love, and not insofar as it is the Word, that is, an object subsisting in itself and known by itself, is the person of the Holy Spirit.

XXVI. The being in the three forms (subjectivity, objectivity, sanctity, or, to put it differently: reality, ideality, morality) is identical. These three forms of being, when transferred to absolute being, cannot be conceived in any other way than as subsisting and living persons. (Vol. I, nos. 19, 196, pp. 154, 159).

The Word, insofar as it is an object of love, and not insofar as it is the Word, that is, an object subsisting in itself and known by itself, is the person of the Holy Spirit (Introduction to the Gospel according to John, Jez. 63, p. 200).

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XXVII. In the humanity of Christ, the human will was so taken by the Holy Spirit to adhere to the objective being, that is, the Word, that it completely surrendered to Him the governance of man, and the Word personally took over the rule, thus incarnating Himself, while the human will and the other powers remained subordinate to the will, which, as the first principle of this theandric being, did everything, or allowed other powers to do it with its consent. Therefore, the human will ceased to be personal in man, and while it is a person in other men, in Christ it remained as nature.

[*Latin ed. p. 406*]

•ç06 E X S. C. INQUISITIONIS et ab persona quae in aliis hominibus remanit, in Christo natura... Verbum autem, incarnatum ita per operationem Spiritus Sancti, unionem suam extendit ad omnes potentias et ad carnem ipsam. - (Introduktio ad Evangelium secundum Ioannem, cap. 85, p. 281). XXVIII. In doctrina christiana, Verbum, character et facies Dei, imprimitur in animo eorum qui cum Me suscipiunt baptismum Christi. Verbum, idest character in anima impressum, in doctrina christiana, est Esse reale (infinitum) per se manifestum, quod deinde scimus esse secundam personam Sanctissimae Trinitatis. 28. Igitur, docuit Christianismus quod Verbum, character et facies Dei, sicut saepe in Scripturis appellatur, imprimitur in animis eorum qui, fide, baptismum Christi accipiunt (Introduktio ad Evangelium, n. 92). - Verbum ergo, idest character impressus in anima, secundum doctrinam christianam, est Esse reale (infinitum) per se manifestum, quod postea scimus esse personam, secundam divinae Trinitatis. (Ibi, Nota). XXIX. Ab ecclesiastica doctrina, quae sola est veritas, non putamus alienam hanc coniecturam: In sacramento Eucharistiae, substantia panis et vini fit vera caro et verus sanguis Christi, quando Christus eam facit terminum sui principii sentientis, ipsamque sua vita vivificat: eo fere modo quo panis et vinum vere transubstantiantur in nostram carnem et sanguinem, quia fiunt terminum nostri principii sentientis. 29. Non credimus alienam ab ecclesiastica doctrina, quae sola est veritas, hanc coniecturam, scilicet quod in Sacramento Eucharistiae, substantia panis et vini omnino cessavit esse substantia panis et vini, et facta est vera caro et verus sanguis Christi, quando Christus eam fecit terminum sui principii sentientis, et ita eam vivificavit sua vita, eo modo quo in nutritione, panis qui editur et vinum quod bibitur, cum in parte nutritiva sua assimilatur ad nostram carnem et sanguinem, vere transubstantiantur, et non sunt amplius, sicut prius, panis vel vinum, sed vere nostra caro et sanguis, quia facta sunt terminum nostri principii sentientis. - (Introduktio ad Evangelium secundum Ioannem, cap. 87, pp. 285-286).

[*Latin ed. p. 407*]

FROM THE SACRED INQUISITION 407. After the transubstantiation has been accomplished, it can be understood that some part is added to

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the glorious Body of Christ, incorporated within it, undivided, and equally glorious.

30. After the transubstantiation, it can be understood that some part has been added to the glorious Body (of Jesus Christ), incorporated within it, undivided, and equally glorious.

31. In the Sacrament of the Eucharist, the Body and Blood of Christ are present only in that measure which corresponds to the quantity of the substance of bread and wine which are transubstantiated: the remainder of the Body of Christ is present there by concomitance.

31. Indeed, because the Body of Christ is one and undivided, it is necessary that wherever a part is found, the whole is found; but not the entire Body becomes the term of its sentient principle, rather only that part which corresponds to the quantity of the substance of bread and wine in the transubstantiation. It would follow that, in virtue of the divine words, this substance of bread and wine is transubstantiated into the flesh and blood of the Savior; but the remainder of the Body and Blood remains united by concomitance; which does not contradict Catholic doctrine.

32. For whoever does not eat the flesh of the Son of Man and drink his blood, has not life in himself; and nevertheless, those who die with the baptism of water, or of blood, or of desire, certainly attain to eternal life: it must be said that those who have not partaken of the Body and Blood of Christ in this life, will receive this heavenly food in the life to come, at the very moment of death, and thus will have life in themselves. Hence, also, to the Saints of the Old Testament, when Christ descended into Hell, Christ was able to communicate Himself under the species of bread and wine, so as to render them fit for the vision of God.

32. If, therefore, he who does not eat the flesh of the Son of Man, and drink his blood, has not life in himself, and nevertheless, he who dies with the baptism of water, or of blood, or of desire, is certainly one who attains to eternal life; it must be said that that communion of the flesh and blood of Christ, which he did not receive in the present life, will be given to him in the life to come, at the point of his death, and thus he will have life in himself... Also, to the Saints of the Old Testament, when Christ descended to limbo, Christ was able to communicate Himself under the form of bread and wine, and thus..., to render them fit for the vision of God.

[*Latin ed. p. 408*]

XXXIII. When the demons had possessed the fruit, they thought that they would enter into a man, if he ate of it; for, being converted into the body of the animated man, they could freely enter into the animal nature, that is, into the subjective life of this being, and thus dispose of it as they had proposed.

XXXIV. To preserve the Most Blessed Mary from the stain of original sin,

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it was sufficient that the smallest seed remained incorrupt within her, perhaps neglected by the demon himself; and that, through this incorrupt seed, the Virgin Mary might arise in her own time, generation after generation.

XXXV. The more one considers the order of justification in man, the more apt one finds the scriptural way of speaking, which says that God covers certain sins or does not impute them. According to the Psalmist, there is a distinction between the iniquities that are remitted, and the sins that are covered: the former, it seems, are actual and free acts of guilt, while the latter are the sins of those who belong to the people of God, and therefore do not bring them any harm.

[*Latin ed. p. 409*]

FROM S*, INQUISITIONIS 4-09/ the sins that are covered, and it seems that by these are meant current sins, and by these, the sins not freely committed, which belong to the people of God, and yet do not receive any harm from them - (Treatise on Moral Conscience, Book I, Chapter 6, section 2).

XXXVI. The supernatural order is constituted by the manifestation of being in the fullness of its real form; the effect of this communication or manifestation is a God-like sense (feeling), which, begun in this life, constitutes the light of faith and grace, and, completed in the other life, constitutes the light of glory.

36. Being (essential) is communicated to us in the ideal form alone by nature, and this constitutes the natural order; being itself is also manifested to us in the fullness of its real form by grace, and this is true communion and perception of God, and constitutes the supernatural order. The effect of supernatural communion is a God-like feeling, of which we have no consciousness at the beginning, just as we have no consciousness of every substantial and fundamental feeling of our own. Now, the God-like feeling of which we speak is incipient in this life, in which it constitutes the light of faith and grace; completed in the other life, in which it constitutes the light of glory - (Philosophy of Law, Part II, numbers 674, 676, 677).

XXXVII. The first light that makes the soul intelligent is ideal being; the second first light is also being, but not merely ideal, but also subsistent and living: that, concealing its personality, shows only its objectivity; but he who sees the other (which is the Word), even if through a mirror and in a riddle, sees God.

37. The first light that makes the soul intelligent is ideal and indeterminate being; the other first light is also being, but not purely ideal, but also subsistent and living... Therefore, the idea is the being intuited by man, but it is not the Word; for that is not, but this is subsistence: that is being which conceals its subsistence and leaves only its indeterminate and impersonal objectivity to shine through; in the mind that intuits the idea, the personality of being does not fall... but he who sees the Word, even if

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through a mirror and in a riddle, sees God - (Introduction to Philosophy, number 85).

XXXVIII. God is the object of the beatific vision, in as much as He is the author of works external to Himself.

[*Latin ed. p. 410*]

410 FROM S. C. INQUISITIONIS 38. Although God, without any means whatsoever, is the object of the beatific vision, and the form of the intellect of the Blessed, nevertheless He is such insofar as He is the author of external works, which in an ineffable way are within Him (Theodicy, n. 672). XXXIX. The vestiges of wisdom and goodness which shine forth in creatures are necessary for those who comprehend; for in the eternal exemplar, those things which are visible to them are collected therein, and these themselves offer an argument for the praises which the Blessed eternally render to God. 39. These vestiges of the wisdom and goodness of creation, far from becoming useless to those who comprehend, rather become necessary; because all these vestiges, collected in the eternal exemplar, are precisely that part of it which is accessible to them, and thus they are that which provides the argument for the praises which they eternally render to God (Ibid., n. 674). XL. Since God cannot, nor through the light of glory, completely communicate Himself to finite beings, He could not reveal and communicate His essence to those who comprehend, except in that manner which is suitable to finite intelligences: namely, God manifests Himself to them insofar as He has a relationship with them, as their Creator, Provider, Redeemer, and Sanctifier. 40. Therefore, since God could not communicate Himself totally to finite beings, not even through the light of glory; it remains to seek in what way He could reveal and communicate His own essence to them. Certainly, in a manner that is conformable to the nature of intelligences; and this manner is that by which God has a relationship with them, namely, as their Creator, as their Provider, as their Redeemer, as their Sanctifier (Ibid., n. 677). Joseph Mancini, S. Rom. et Univ. Inq., Notary.

[*Latin ed. p. 411*]

411 FROM THE DECREE OF THE HOLY CONGREGATION FOR INDULGENCES, BY WHICH AN INDULGENCE OF THREE YEARS IS GRANTED, TO BE OBTAINED ONCE A DAY, TO THE FAITHFUL WHO RECITE THE PRAYER OF THE ANGELIC DOCTOR, SAINT THOMAS AQUINAS.

Most Blessed Father, Most Blessed Father Vincent Leone Sallua, Archbishop of Chalcedon, prostrate before the Holy Feet, humbly beseeches Your Holiness to deign to grant the Indulgence of three years, applicable to the souls of the departed, which may be obtained, once a day, by all the faithful, who, with at least a contrite heart and devoutly, shall recite the following prayer, composed and recited by Saint Thomas of Aquin.

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Vincentius Leo Sallua, Archbishop of Chalcedon, having prostrated himself before the Holy Feet, most humbly implores Your Holiness, that you would deign to grant an Indulgence of three years, applicable to the departed, to be obtained once a day by all the faithful, who, with at least a contrite heart and devoutly, shall recite the following prayer, composed and recited by Saint Thomas of Aquin.

PRAYER FOR WISELY ORDERING LIFE

"Grant me, merciful God, that which is pleasing to You, I may ardently desire, prudently investigate, truthfully acknowledge, and perfectly fulfill, for the praise and glory of Your name. Order, O my God, my state of life; and that which You require of me to do, grant that I may know; and grant me to carry it out as is fitting and beneficial for my soul. Give me, O Lord God my God, to persevere amidst both prosperity and adversity, so that in the former I may not boast, and in the latter I may not be depressed. Let me rejoice in nothing, nor grieve, except in that which leads to You, or draws me away from You. Let me desire to please no one, nor fear to displease, except You. Let all things temporal be worthless to me, and let all things eternal be dear to me. Let the joy that is without You be distasteful to me, and let me desire nothing outside of You. Let labor that is for You delight me; and let all rest that is without You be distasteful to me."

[*Latin ed. p. 412*]

412 FROM THE SACRED CONSTITUTION ON INDULGENCES: Give me, O my God, to direct my heart towards you, and to grieve justly over my fault, with the firm purpose of amendment. Make me, O Lord my God, obedient without contradiction, poor without dejection, chaste without corruption, patient without murmuring, humble without hypocrisy, joyful without dissipation, mature without gravity, agile without levity, fearing you without despair, truthful without duplicity, working good without presumption, correcting my neighbor without arrogance, building myself up with the word and example, without simulation. Give me, O Lord my God, a heart that, through vigilance, no curious thought may draw away from you; give it nobility, so that no base affection may drag it down; give it rectitude, so that no crooked intention may turn it aside; give it firmness, so that no tribulation may break it; give it freedom, so that no violent passion may claim it for itself. Grant me, O my God, understanding to know you, diligence to seek you, wisdom to find you, a conversation pleasing to you, perseverance to await you confidently, and faith to embrace you finally. May I be afflicted by your punishments through penance, may I use your benefits through grace, and may I enjoy your delights in the homeland through glory: Who lives and reigns, God, forever and ever. Amen. From the Audience of the Most Holy Day, January 17, 1888. The Most Holy Pope

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Leo XIII graciously granted the grace requested. This is valid for the present and for all time, without any brief. Notwithstanding any contrary things. Given from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on January 17, 1888. CAIETANUS, Cardinal Aloisi Masella, Prefect. ALEXANDER, Bishop of OENSIS, Secretary.

[*Latin ed. p. 413*]

FROM S. C. INDULGENTIARUM 413, DECREE OF THE CITY AND THE WORLD, BY WHICH INDULGENCES FOR THE ENTIRE MONTH OF NOVEMBER ARE GRANTED TO THE FAITHFUL FOR THE BENEFIT OF THE SOULS IN PURGATORY. From the Audience of the Most Holy Father on January 17, 1888. Among other offices of Christian piety, it has also been established in many churches of various dioceses that, during the entire month of November, daily prayers be offered for the souls in Purgatory, and indeed, this pious practice has begun to be frequently undertaken privately by the faithful. Although the Roman Pontiffs have not refused to grant the benefits of Indulgences for this "pious practice" to those who request them, the granting of these Indulgences has not yet been universal. However, when supplications were presented to the Most Holy Father, Leo XIII, so that he might deign to open the treasury of Indulgences to all the faithful who engage in this aforementioned pious practice, the same Most Holy Father, graciously accepting these petitions, and in order that greater charity may be fostered towards the souls of the departed, has graciously granted an Indulgence of seven years and seven quarantines, to be gained once on each day of the aforementioned month, to all the faithful of both sexes who, either publicly or privately, strive daily throughout the entire month of November to offer comfort to the souls in Purgatory through particular pious exercises and devout observances; and, furthermore, a Plenary Indulgence is granted on one day of the aforementioned month, to those who, truly contrite, have confessed and received Holy Communion, and who visit a church or public chapel, and there pray piously according to the wishes of the Holy See. The same Holy Father has also graciously declared these Indulgences to be applicable to the deceased. This present decree is valid forever, without any brief being required, in contradiction to all that may be contrary. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on January 17, 1888.

CAIETANUS, Cardinal.

ALOISI MASELLA, Prefect.

ALEXANDER, Archbishop.

GEWSIS, Secretary.

[*Latin ed. p. 414*]

414 FROM 3. CONGREGATIONE INDICIS: LETTER FROM THE MOST REVEREND SECRETARY OF THE SACRED CONGREGATION

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OF THE INDEX TO THE BISHOP OF BARCELONA, CONCERNING A PAMPHLET ENTITLED "Liberalism is Sin" (i).

Most Excellent Lord, on January 10, 1887, the Sacred Congregation of the Index received a submission of a pamphlet entitled "Liberalism is Sin," authored by the Reverend Father Felix Sarda and Salvany, a priest of your diocese. This submission was repeated along with another pamphlet entitled "The Process of Integralism; that is, a Refutation of the errors contained in the pamphlet 'Liberalism is Sin'." The author of this second pamphlet is the Reverend Father de Pazos, a canon of the Diocese of Vich. Therefore, the same Sacred Congregation carefully examined both pamphlets, noting certain observations: but in the first, it found nothing contrary to sound doctrine; indeed, the author of the same, the Reverend Father Felix Sarda, is to be commended, because with solid arguments, order, and clarity, he presents and defends sound doctrine on the subject matter, without causing offense to anyone. However, a different judgment was rendered concerning the second pamphlet published by the Reverend Father de Pazos. For in some respects, it requires correction, and furthermore, the offensive manner of speaking used by the author, which is directed more against the person of the Reverend Father Sarda than against the errors that are supposedly contained in the pamphlet of the aforementioned writer, cannot be approved. Therefore, the Sacred Congregation ordered that the Reverend Father de Pazos, having been warned by his own Ordinary, should, as much as possible, withdraw the copies of his pamphlet, and that in the future, if any controversies should arise, he should abstain from any words that could be considered offensive.

(1) You should know, so that the reason may be understood, that the cause of the two letters presented here is that a pamphlet entitled "Liberalism is Sin" has been published in Spain in recent days. Against this, another pamphlet immediately appeared, entitled "The Process." Both pamphlets dealt, for the most part, with political matters, and both were reported to the Sacred Congregation, whose judgment was favorable to the first pamphlet, but unfavorable to the second. This judgment was made clear in the first letter from the Secretary of the Sacred Congregation to the Ordinary of Barcelona. However, disagreements arose from this judgment; so that many Catholics in Spain have made recourse to the Roman Pontiff, imploring him to declare the true meaning of the words, "laudem," which the Sacred Congregation attributed to the pamphlet "Liberalism is Sin." This desire has been answered in the second letter.

[*Latin ed. p. 415*]

FROM THE SACRED CONGREGATION'S INDEX 415 concerning injuries to persons, as true Christian charity teaches: even more so, because the Most Holy Lord Pope Pius XIII strongly urges that errors be refuted, yet He does not love nor approve of injuries inflicted upon persons, es-

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pecially those distinguished by doctrine and piety. While I communicate this to you by order of the Sacred Congregation, so that you may manifest to your illustrious diocesan, D. Sarda, for the sake of his peace of mind, I pray that all good and happy things may come from the Lord, and with all due respect, I subscribe. Your Eminence's most devoted servant, FATHER HIERONYMUS PIUS SACCHERI, O.P., Secretary of the Sacred Congregation of the Index, KX3ëex>* LETTER FROM THE MOST EMINENT PREFECT OF THE SACRED CONGREGATION TO THE BISHOP OF BARCELONA, DECLARING AND CONFIRMING THE PRAISE BESTOWED IN THE PRECEDING LETTER BY THE SAME SACRED CONGREGATION. My most reverend Lord, as a brother from Rome, from the Secretariat of the Sacred Congregation of the Index, on August 29, 1887. Supplicating prayers have been presented to the Apostolic See by certain faithful of this Diocese, wishing to know the true meaning of the letters which were sent by the Reverend Father Secretary of the Sacred Congregation concerning the work of the Reverend Father Felice Sarda and Salvany, entitled "El liberalismo es pecado" [Liberalism is sin], on January 10 of this year, to Your Eminence. The reasons which gave rise to doubts and anxieties arose from the fact that the meaning of these letters was, by some, interpreted as pertaining to political questions which are currently stirring among Catholics in Spain, thus leading to heated disputes among newspaper writers, suitable for disturbing consciences and fostering divisions of opinion. Promptly, at the command of the Supreme Pontiff, after carefully considering these prayers, it became clearly evident that the praise bestowed upon the aforementioned work by the letter of the aforementioned Father Secretary, which was the primary cause for doubt, referred solely to abstract theses and general principles of doctrine, which are clearly and systematically expounded by D. Sarda in his writing, in accordance with what is taught by the Church, and not at all to certain incidental propositions or allusions contained therein, which may perhaps refer to the concrete order of events or the state of affairs in Spain: nor does it touch upon anything of that nature.

[*Latin ed. p. 416*]

416 "It was the intention of the Sacred Congregation to provide guidance or a solution. Therefore, a broader interpretation of these praises, or applying them to the supporters of one political faction, and promoting their methods to the detriment of another, as some have attempted, could in no way be in accordance with the deliberations of the Sacred Congregation. Thus, the fears of those Catholics who, setting aside the authority of private writers, follow the solemn documents and warnings of the Roman Pontiff in safeguarding the rights of religion and promoting its interests, especially those conveyed through Encyclical letters such as *Immortale Dei*, are unfounded. Those who faithfully and sincerely follow this safest

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norm, proposed by the Apostolic See to all the faithful, and especially to the Spanish, can be certain that they will not only fulfill the duty imposed on all Catholics, but will also be worthy of praise, and therefore, they have rightly been alarmed by the less correct interpretations that, influenced by political passions, have been attributed to the letter from the Secretary of the Index. Considering all of this, this Sacred Congregation deemed it necessary to send these letters to Your Eminence (1:) so that, by making them public, the legitimate and true interpretation of these praises, which D. Sarda earned for his work, may be restored in these regions, and any opportunity for further disturbance of consciences, or for sterile disputes that, although seemingly beneficial, have always produced harmful effects to the detriment of the Church, whose goal is the salvation of souls and the reign of truth and justice, may be removed. In the meantime, I pray that all good and happiness may be granted to you by the Lord, and with all due respect, I subscribe to Your Eminence's decree. Your most devoted servant, Fr. Thomas Maria, Cardinal Martini, Bishop of Sabina, Prefect. Fr. Jerome Pius Saccheri, Order of Preachers, Secretary. To the Most Illustrious and Reverend Lord, Dom James Catalá and Albosa, Bishop of Barcelona, in Barcelona, (1) The same letters were also sent to the Most Illustrious and Reverend Lord, Dom Cyriacus Maria Sancha and Hervás, Bishop of Madrid-Complutense.

[*Latin ed. p. 417*]

417 By the authority of the Most Holy Lord Leo XIII; by which, the last Sunday of this September was established as a day of great expiation, in suffrage for the souls detained in Purgatory. VENERABLE BROTHERS, GREETINGS AND APOSTOLIC BENEDICTION. We acknowledge with gratitude to the highest God, to whose most provident will and decree all human life is governed, that the anniversary of our sacerdotal ordination has recently shone forth for the Church, having reached its fiftieth year. And just as only He could excite such widespread agreement among souls in their observances, in their generous offerings, and in public demonstrations of joy, whose dominion extends entirely over the minds, wills, and hearts of men, and whose events direct and govern the glory of the Christian religion. Indeed, it is a remarkable and memorable event, from which even the enemies of the Church, whether unwillingly or against their will, perceive with their own eyes how the divine life and divinely-born virtue of Christ always flourishes, and are thus compelled to believe, and to utterly reject the insane efforts of impious nations who rage and meditate vain things against the Lord and against His Christ. Truly, so that the memory and utility of this divine benefit may remain as widely as possible, we have entrusted to our entire flock the treasures of heavenly graces; nor have we neglected to implore the divine gifts for those very ones who are still outside the single Ark of salvation. This we have done, so that

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all nations and peoples may be more quickly united in the social bond of faith, under one fold and one shepherd: thus, indeed, we have earnestly prayed to our Lord Jesus Christ during the solemn canonization recently celebrated. We have, with our eyes turned towards the triumphant Church, and to Christian heroes, concerning whom the knowledge of their most excellent virtues and miracles had already been happily completed for the purposes of canonization, solemnly decreed and bestowed the highest honors of saints upon some, and the cult of blessedness upon others, so that those who are in the heavenly Jerusalem may be joined with this one that journeys on earth in a communion of joy, by the Lord. Acts, Vol. XX, p. CCXXXVII, 27.

[*Latin ed. p. 418*]

418 Letters: With the help of God, we desire to offer, through the offices of Our Apostolic charity, from the fullness of the infinite spiritual treasure, as much as possible to those beloved sons of the Church, who, having departed from this life's service with the sign of faith and inserted into the propagation of the mystical life, by the death of the just, have migrated. However, they are prohibited from entering eternal rest until they have rendered, to the Divine Justice, at least a quarter of the debt contracted for their sins. We are moved by the pious prayers of Catholics, which we know are grateful for this Our decree; by the lamentable torments with which the souls of the deceased are afflicted; but above all, we are moved by the custom of the Church, which, even among the more joyful celebrations of the year, observes the holy and salutary memory of the dead, so that they may be cleansed. Therefore, since it has been explored from Catholic doctrine that the souls detained in Purgatory are aided by the prayers of the faithful, and especially by the acceptable sacrifice of the Altar, we do not believe that we can offer a more useful or desirable pledge to them than if we multiply, in all places, the offering of the holy Sacrifice of our Divine Mediator for their satisfaction. Wherefore, with all necessary dispensations and derogations, we establish that the last Sunday of the coming month of September shall be considered as a day of the greatest expiation, on which We, and also each of Our Patriarchs, Archbishops, Bishops, and other Prelates having dioceses, shall celebrate, in their respective Patriarchal, Metropolitan, and Cathedral Churches, a special Mass for the dead, with greater solemnity than is possible, and with the rite assigned in the missal for the Commemoration of all the faithful departed. We also approve that this be done in parochial and collegiate churches, both secular and regular, and by all priests, provided that the Mass corresponding to the office of the day is not omitted, wherever it is obligatory. Furthermore, we earnestly exhort other Christians to, having made sacramental confession, devoutly partake of the angelic bread to offer their suffrage for the purification of souls. To those, however, who celebrate the Altar's privilege, We

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grant a plenary Indulgence for the dead, as stated above, by Our Apostolic authority. Thus, the pious souls in whom the remains of sins are purged by the terrible magnitude of torments, will receive a fitting and singular comfort through the saving Host, which the entire Church, united with its visible Head, receives with the same affection of charity.

[*Latin ed. p. 419*]

LETTERS 419, inflamed with zeal, are offered to God, that He may grant them a place of refreshment, light, and eternal peace. Meanwhile, to you, Venerable Brothers, and to the entire clergy and people, trusting in your care, we impart the Apostolic blessing, a pledge of heavenly gifts, earnestly in the Lord. Given in Rome, at St. Peter's, on the solemn day of Easter, in the year 1888, in the eleventh year of Our Pontificate. LEO XIII. LETTERS from the Most Holy Lord Leo XIII, by which all Local Ordinaries are instructed to remember, at least once each year, the needs of the Holy Land, for the enlightenment of the faithful in each parish church. LEO XIII. From a perpetual remembrance of the thing, as Vicar on earth, despite Our unworthiness, of Our Lord and Savior Jesus Christ, who, for the redemption of the world, annihilated Himself, becoming obedient even unto death, death on the cross, we, in His stead on earth, though unworthy, amidst the various and diverse cares of Our supreme Apostleship which absorb us; we nevertheless wish to apply Our special vigilance and pastoral solicitude, so that the monuments that remain to us of this great and holy mystery in the city of Jerusalem and the surrounding regions may be guarded and preserved with all possible care and veneration, and also to ensure the full execution of the orders and instructions wisely imparted for this purpose by Our predecessors, the Roman Pontiffs. For the perpetual memory of the Lord Christ, and that He Himself, the Savior, redeemed the world by emptying Himself, becoming obedient even unto death, death on the cross, we, in His stead on earth, though unworthy, amidst the various cares of Our supreme Apostleship which almost absorb us, we wish to apply Our vigilance, Our Apostolic intention, so that the many monuments of this holy mystery in the city of Jerusalem and its surroundings may be guarded and preserved with all possible care and veneration; and also to strive, as Our predecessors, the Roman Pontiffs, have wisely provided, that the statutes and precepts are fully and completely observed. For a long time, and until the times...

[*Latin ed. p. 420*]

LETTERS 4*20 to the predecessor. For a long time, these same Supreme Pontiffs, indeed, from the most remote antiquity, having turned their gaze towards these places, stained with the precious blood of the Divine Man, have stirred up the Catholic nations to recover the Sepulchre of Christ; and when these Holy Places fell again into the hands of the infidels, and only

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the Minor Friars of the Order of St. Francis of Assisi had the power to safeguard them, the Roman Pontiffs never ceased to watch over them, at least to the extent that it was possible, so that these sacred places might be preserved, and to provide, according to the times, for the needs of these religious men, who, neither through the persecutions of the infidels, nor through vexations, nor through the most cruel tortures, were ever able to deter them from strenuously fulfilling their glorious mission.

Several times, the Popes warmly recommended, either in person or through Apostolic Letters, to the Patriarchs, Bishops, and other Ordinaries of the whole world, to stir up the faithful entrusted to their care to collect offerings for the maintenance of the Holy Places; and they established special rules on this matter in many Apostolic Letters, sometimes in the form of Bulls, sometimes in the form of Briefs, and, with unanimous agreement, they prescribed to all the Dioceses of the world to determine annually for the faithful, under the precept of obedience, certain days for the collection of alms in favor of the Holy Places.

The same Roman Pontiffs, sometimes in person, and then through Apostolic Letters and other means, exhorted the Patriarchs, ordinary Bishops, and those who held ecclesiastical power throughout the world, to encourage the faithful to make offerings for the places in which they might be preserved; and they established certain special rules for this purpose, and in many Apostolic Letters, as they say, in the form of Bulls, or in the form of Briefs, they determined; and with unanimous agreement, they commanded all the Rectors of the Dioceses to assign to the faithful certain days each year in which they should collect offerings for the Holy Places.

[*Latin ed. p. 421*]

Finally, Pius VI, of glorious memory, Our Predecessor, with a Bull which begins "Inter cetera divinorum Iudiciorum abdita arcana," dated July 31st of the year 1778, decreed that from all the Bishops, four times a year, the needs of the Holy Land should be recommended to the pious charity of the faithful. In these our days, our beloved son Bernardino from Portogruaro, Minister General of the Order of the Friars Minor Observant, has made it known to Us that the needs have increased in these last years, and that the means obtained from the faithful are no longer sufficient for the maintenance of the Holy Places; especially because, having passed more than a century since the Constitution of Pius VI, a certain number of Bishops neglect it, as if it had fallen into disuse, and they no longer recommend to the faithful with due diligence the collection for the Holy Land. Therefore, humble and fervent prayers were addressed to Us, so that, in the fullness of Our Apostolic Authority, We might wish to make some new provision in this regard. Therefore, desiring to support such a prayer, and for the particular interest that We hold in the preservation of the Holy Places, by virtue of Our Apostolic Authority, We order, with the present document,

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and perpetually, that Our venerable

[*Latin ed. p. 422*]

To the most Reverend Brothers, Patriarchs, Archbishops, and Bishops, and other Ordinaries throughout the world, bound by the bond of holy obedience, We command that they diligently see to it that, at least once each year, the needs of the Holy Land be commended to the charity of the faithful in every parish church within their dioceses, either on the Friday of Holy Week or on another day of each year, as each Ordinary shall choose. We expressly forbid, with the same authority, and We prohibit anyone from changing the purpose of the alms collected in any way for the Holy Land, or from applying them to other uses. Furthermore, We order that the proceeds of the collection made, as has been said, by the parish priest, be remitted to the Bishop, and from the Bishop to the nearest Superior of the Order of St. Francis, appointed as commissary for the Holy Land. Finally, We desire that this latter, according to custom, transmit the alms to Jerusalem as soon as possible to the Custodian of the Holy Land.

Given at Rome, near St. Peter's, under the Fisherman's ring, on the 26th of December, 1887, in the tenth year of Our Pontificate.

M. Card. LEDOCHOWSKI.

[*Latin ed. p. 423*]

423 FROM THE HOLY CONGREGATION OF THE COUNCIL OF PALERMO, CONCERNING MARRIAGE, dated February 27, 1886, and August 20, 1887. Session 24, Chapter 1, Concerning Reforms. Rosaria, a young woman from Palermo, had given her heart to a young man named Bernard Lo Castro. However, her mother, who opposed this youthful affection due to the disparity in their circumstances, proposed another young man, namely Isidoro Lo Musso, who was 30 years old, to her daughter. The young woman, in fact, married him in Palermo on December 13, 1857, in the church of St. Nicholas, in the presence of a priest and two witnesses. However, this marriage was soon marred by misfortune; for, after about two weeks of living with her husband, the bride abandoned her "conjugal bed" and fled to Bernard Lo Castro, with whom she has lived since 1858, having borne him eight children. Finally, she returned and approached the Archbishop of Palermo, requesting that the marriage she had entered into with Isidoro Lo Musso be declared null and void, "by virtue of force and fear." The Archdiocesan court initiated a process, and after questioning the woman, questioning four witnesses presented by her, and hearing the defender of the marriage, it issued a judgment upholding the validity of the marriage. Following this, and due to numerous serious laws promulgated by Pope Pius IX for Sicily, the woman appealed to the court of Cefalù; which, after hearing only three new witnesses, and after hearing the woman's advocate, as well as the

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defender of the marriage, declared that the judgment of the Palermo court should be revoked, and that the marriage between Rosalia and Isidoro should be declared null. SUMMARY OF THE FACTS.

[*Latin ed. p. 424*]

424 In Panormitana, contra hanc sententiam, defensor vinculi, ex Cephaludensi, illico appellavit ad Sacram Congregationem Consistoriam*, quae, attentis ad paupertatem mulieris, actricis, et, praehabitis votis tum Theologorum tum Canonistarum, iussit causam aeconomice pertractari. Disceptatio Synoptica. OPINIO CANONISTAE. Canonista contendit matrimonium Rosaliae cum Musso contractum defectu consensus nullum fuisse. Quod ut probet*, prae primis perpendit ad matrimonium in veritate contrahendum, legitimum consensum requiri, Cap. Tuae de sponsal., et consensum tunc dici legitimum, cum verax et liber est; seu si expressio voluntatis signis sensibilibus facta conformis est actui interiori ipsius voluntatis. Ut igitur matrimonium in veritate contrahatur, mutui consensus debent exprimere sincere uniformem adhaesionem interioris voluntatis. Quod vero metu coactum pronuntiatur, non est nisi quaedam fictio, quia metus essentialem voluntatis facultatem laedit atque opprimit, quae libertas est, cum qua voluntas naturaliter evolvitur. Quae ita sint, canonista denegat Rosaliae revera protulisse consensum suum in matrimonio cum Isidoro Mussò contrahendo; quia libera non erat, enim tam ex ipsius confessione, quam ex omnium testium depositione liqueat, ipsam Locastrò antecedenti amore fidelitatem spondebat, a quo erat alligata amoris vinculo vehementis. Consensus defectum ex alia quoque ratione evincere studet, quia scilicet fuit a metu coactus. Et metus existentiam evinciendum, e signis et factis, sed etiam ex depositione testium de visu, qui testantur accurrisse ad domesticos parietes, in quibus Rosalia vexabatur a parentibus; nec non ex lamentationibus et contentionibus ipsius Rosaliae, quae frequenter lamentabatur a matre sua vexari et coegi ut "cum Isidoro Masso nuberet. Et licet aliqui canonistae tradant timorem a matre illatum non adimere libertatem; aliter tamen sentiunt, si mater austera sit, et in factis austeri cordis appareat: Quia 1.

[*Latin ed. p. 425*]

PANORMITANA 425: At that time, all the canonists agree that, because of the reverential fear of this woman, her actions will have the same weight as those of a father. Furthermore, it is certain that Rosalia's mother, being stern, compelled her daughter, especially since she herself offered Isidoro Musso to her, indeed, that she not only threatened her, but also used coercion and beatings to force her to enter into marriage with Musso; for not only did Rosalia herself confess this under oath, but all the witnesses heard in both the first and second instances, under the bond of conscience, confirmed the same, and added that when questioned twice by a priest,

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whether she wished to take Isidoro Musso as her husband, she gave no answer; and that when questioned a third time, she answered with a nod, because her mother was urging her to give an affirmative answer. And some of the witnesses are considered to be of great value, because they had an interest in preventing Rosalia's marriage with Musso from taking place, since they were the heirs of Bernardo Locastro, and they wished to preserve the honor of the family, preventing any relationship with a servant girl, who, if made an affine, would be a disgrace. Given these facts, the canonist argued with Sánchez, *Disputationes*, VI, question 1. He concluded that Rosalia's consent was extorted by true and grave fear, and he agreed with the Holy Rota, decision 374, before Ludovisi, that the marriage was null because of the lack of consent; for, during the time of fear, all actions are considered to be vitiated, even if they appear to express free will and a joyful and pleasant disposition, decision 300, n. 3, *contra*, ibid., Ludovisi. Nor could the consent be reformed or ratified by a subsequent union, because, according to Rosalia's own confession, she was forced, while she was overwhelmed by sleep. Sánchez, in *Liber* IV, *Disputationes*, XVIII, states that in order for a marriage contracted by grave fear to be declared invalid, and then ratified by a subsequent union, two things are required: namely, that the union must have been consummated with marital affection, and that there must have been a prolonged and mutual cohabitation, freely and spontaneously, so that, even with the opportunity, there was no occasion to leave, and yet the spouse who entered into the marriage through fear did not leave. For a sufficient sign of consent is the union of spouses.

[*Latin ed. p. 426*]

426 In Panormitana, there were those who maintained that marriage is valid only if both parties desire it, and that if one party fears separation, they can recede from the marriage, and spontaneously persevere in it. However, in this case, neither of these conditions was met: 1° Rosalia did not enter into the marital union with affection; and this is evident, apart from what Rosalia herself confessed, not only from the testimonies of the witnesses, namely, from the mutual disagreements that occurred during those few days in which they lived together; but also because Rosalia had Bernard Locastro in her mind, whom she intended to pursue with love, and a promise from him that she would suddenly become a concubine in his house. 2° There was no long-lasting, spontaneous cohabitation; because Rosalia lived with Isidoro Musso for fifteen days, with a resentful heart and under duress; and when an opportunity presented itself, she left the house, from which she could not have fled sooner, because she had no other home where she could lay her head. She left, but went to the house of Bernard, whom she loved most. Therefore, the cohabitation with Isidoro Musso was not long-lasting, nor did Rosalia ever have the intention of remaining, as the

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subsequent events demonstrated. Furthermore, it is added that, although in the forum of conscience, after having ceased for fear, no ratification of the marriage can occur if there was no intention of ratifying it; however, in the external forum, it is presumed that the spouses intended to ratify it from that long and spontaneous cohabitation. But there is no trace of this ratification in the matter; indeed, there are the most certain signs that demonstrate the opposite; and these, as is evident from the girl's confession and from the testimonies of the witnesses, consist in the daily disagreements between the spouses. For where there is a dissociation of minds and disagreement, marital affection cannot exist. Moreover, the witnesses may be accused of falsehood, because, as the defender of the bond argues, either they are not able to retain in their memory what happened a long time ago, or because their perfect deposition presupposes an identity with the preceding agreement. Such offenses, however...

[*Latin ed. p. 427*]

PANORMITANA 427, the canonist, responds that the truth of testimonies is to be presumed, unless the contrary is evidently apparent, or unless the immorality of the witnesses is demonstrated. Indeed, when neither of these appears from the proceedings, he concludes that what is presented by the defense is nothing other than conjectures derived from hypothetical suppositions made by the defendant himself. Equally abhorrent to the truth is the fact that the witnesses are parents and have an interest in the aspirations of the aforementioned Rosalia. Since, with the exception of Bernard Locastro, whose testimonies were not given, the other witnesses were neither relatives, nor affines, nor could they possibly agree with the desires of Rosalia, being entirely indifferent. But the events which leave deep imprints on the emotional system, especially in youth, are not easily erased by oblivion. However, the agreements of the witnesses among themselves cannot be presumed, where no suspicion is manifested. For the truth is one, and if a fact is true, it cannot be other than one. When all who have seen the fact agree in one account, the witnesses are truthful concerning that fact. Finally, it is equally absurd to argue that the true consent of the spouses is demonstrated by the fact that the priest, charged with blessing the marriage, proceeded, because it is undoubtedly the case that the priest requested an explanation regarding the incompatibility of the repeated acts in response to his questions from Rosalia; and that the priest, from the mother, perceived a silence in the girl, originating from a certain blush, and then proceeded to the blessing of the marriage, only when, after being questioned a third time, Rosalia responded with hidden signs of the suggestion of her mother, that she wished to. Since it is not improbable that the girl blushed, it is therefore possible that the priest was deceived by the excuse of Rosalia's mother, especially because he was not informed of the preceding facts. Considering these and other things, the

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conclusion is reached that, in this case, no marriage is null due to a lack of consent. THE THEOLOGIAN'S OPINION. The theologian states that the opinion held among the Doctors, after D. Th. 4 dist. 29, is to be considered the most acceptable, namely, that a marriage begun out of fear, unjustly instilled, is not valid, for this reason, it is not free.

[*Latin ed. p. 428*]

428 PALERMO! The law is invalid and of no effect. In this sense, the following should be understood from what Alexander III states in chapter 44 concerning promises: "Where there is no agreement, and fear and coercion intervene, it is necessary that, where the consent of each party is required, the matter of coercion be removed." And this is indeed correct: for if, by the law of nature, it is required in every burdensome contract that each party freely give their consent, certainly a greater freedom must be required for entering into marriage, both because it is perfected solely by consent, and because it also contains a perpetual and indivisible union of life. It does not obstruct the fact that even grave fear does not render consent entirely involuntary, and therefore other contracts entered into under such fear are only rescindable; for, as Pontius I says in book 4, chapter 14, "A greater and more perfect voluntariness is required for marriage than for other civil contracts, and indeed, since other contracts are of lesser importance and are dissolvable by their very nature, either by human authority or by the consent of the contracting parties, it is not surprising if they are entered into with a mixed will." The reason for this distinction is explained by D. Th. in supplement, question 47, article 3, with these words: "The bond of marriage is perpetual, and therefore that which is contrary to perpetuity destroys marriage, because it can be restored to its original state, and therefore this coercion, which falls upon a steadfast man, destroys marriage and not others." With these legal principles established, he proceeds to the facts and states that it must be inquired whether it can be established from trustworthy witnesses that the fear and coercion inflicted upon Rosalia were such as to render the marriage invalid. And the conditions required by the Doctors for this purpose are reduced to the following: 1. That the fear be grave, so as to affect a steadfast man; 2. That it be inflicted by an external and free cause; 3. That it be unjustly inflicted; 4. Finally, for the purpose of causing the marriage to be entered into. Regarding the first, it is noted that the words "falling upon a steadfast man" should be understood relatively, not absolutely. Because fear, when it is in the subjective and internal affection...

[*Latin ed. p. 429*]

PALERMO 429. Because of the imminent danger, it is necessary to consider that the same imminent danger affects men and women differently, as well as children and adults. Therefore, besides the gravity of the evil,

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consideration must be given to the person who is filled with fear, and also to the one who instills the fear, whether they are severe and accustomed to using threats to achieve their ends. This must be considered especially in the case of reverential fear, which excludes consent and renders marriage null, if constant and importunate pleas and threats are added; Les'sius, *De iustitia et iure*, I, 2, § 17. Furthermore, from the unanimous testimony of witnesses, it is clear that not only prayers and threats, but also beatings and the most cruel tortures were used against Rosalia, up to the very last moment, in order to extort consent. It is difficult to challenge the authority of these witnesses, given the perfect agreement among them in recounting the facts, which establishes a harmony that is difficult to suspect. Moreover, while this perfect agreement exists regarding the essential aspects of the facts witnessed with their own eyes, it does not exist regarding secondary details; furthermore, if this offense had any weight, there would be a question of historical certainty; for whether the witnesses agree in recounting a fact, or whether they disagree, they would not deserve any credence. He asserts that the force and fear were unjustly inflicted, not so much from the details recounted by the witnesses that preceded the marriage; but rather from the circumstances that accompanied it. Several witnesses testify, some of whom were present in the church, while others received information from witnesses who saw it, that Rosalia, after being questioned once and again by the parish priest, as to whether she would accept Lo Musso as her husband, gave no answer; then, the mother, who was standing behind, shook Rosalia's dress, by which act Rosalia was aroused and gave her consent. These acts, considering the preceding circumstances, the remembrance of the past, and the threats of the future, cannot be doubted to contain. Finally, it appears with no less evidence that the consent was coerced, from the circumstances that followed the marriage.

[*Latin ed. p. 430*]

430 PALERMO: "What, then," he says, "does her resistance to entering into the marriage bed signify? What does her flight from the marital home after fifteen days from the marriage, signify, if not the greatest and most constant aversion of her mind from her supposed spouse? And this marriage could not have been validated, neither by the lack of consent given through carnal intercourse with marital affection, nor by free cohabitation with the spouse; because the impediment is public. Indeed, according to Sánchez, L. 2, B. 37, 'an impediment is public, when it is known to the parish priest and two witnesses, or when it can be proven in an external forum with two witnesses, without any exception for older individuals, or for those to whom nothing can be opposed.' In this case, besides the neighborhood, there were three witnesses of the most worthy fidelity present, who could have perfectly proven the violence and fear inflicted by the mother and sister-in-law. From these things, it is clear that it could not have been

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validated in any other way, except by contracting the marriage again before the parish priest and witnesses, according to the norms of the Council of Trent. From all of these things, it seems sufficient to conclude that the marriage of Rosalia with Lo Musso is invalid and null, because it was entered into due to a grave and unjust fear. However, since from the judicial acts of both Courts it clearly appears that the process was not completed according to the provisions of Constitution Benedict XIV, because neither the mother, nor the sister-in-law, who are presented as the main causes of coercion, were subjected to examination, nor were the parents and relatives of either party summoned, nor the witnesses who were present at the marriage, but only the testimony of witnesses presented by the one who brought the case, both Courts have rendered a judgment; therefore, it seems necessary to appeal to the Roman Pontiff for the correction of the proceedings."

OBSERVATIONS OF THE DEFENDER OF THE BOND. The Defender of the Bond, citing Paul Rubens in Annot. ad decis. 392, n. 27 and following, part 4, recent, observes that it is established in law that: "When it is a question of the dissolution of marriage, which is a great sacrament, all diligence and caution must be exercised, so that, as far as human frailty allows, all fraud and error may be excluded... therefore, the Church has instituted..."

[*Latin ed. p. 431*]

PANORMITANA 43 1, before similar marriages are dissolved... Furthermore, he states that it is most widely known that what is prescribed most holily by Benedict XIV in the Constitution *Dei miseratione*, and what is minutely indicated in the letters of the Sacred Congregation of the Council, dated August 22, 1840, are to be observed. Having these things in mind, the Bishop of Cephalù, on February 1, 1884, ordered the Curia of Panormitana to subject the witnesses presented by the plaintiff to examination; when, indeed, the defender of the marriage was not present in mind: for it appears that on the 4th of the following May. Therefore, he argues that the commission for the examination of witnesses, which was constituted as the principal part of the procedural acts of the judgment of Cephalù, suffers from a manifest flaw of nullity, in accordance with the cited Constitution *Dei miseratione*, § 7, where it is written: "Whatever is done in judgment, concerning which the defender of the marriage has not been legitimately cited or notified, We declare to be null, void, and of no effect, and We will that it be held as null, void, and of no effect, etc." From the invalidity of the aforementioned commission, the invalidity of the very examination of the witnesses descends, even if it suffers from another intrinsic defect. Furthermore, it is the case that when witnesses are examined by someone other than the judge instructing the process, the interrogatories must be prepared by the defender of the marriage through the aforementioned judge appointed for the process, in accordance with § Si alias of the in-

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structions of the Sacred Congregation of the Council, dated August 22, 1840. Indeed, not only when absent witnesses are to be examined, but also when witnesses are examined by the judge himself, the defender of the marriage must prepare the interrogatories to be presented to the witnesses, or even to the spouses themselves, and these must be opened only during the act of examination, as cited in the instructions of August 22, 1840, § Praefinito. But nothing of this was done either in the process of Cephalù, or in that of Panormitana; because the witnesses were subjected to positions or interrogatories prepared by the plaintiff's advocates, and made public long before. Furthermore, it is often stated in the aforementioned instructions, that each witness and spouse, after being questioned, should swear that they have spoken the truth, and never before the public announcement of the process.

[*Latin ed. p. 432*]

435. The depositions, whether questions proposed or answers given, are to be recorded in full. Furthermore, in the processes of Cephaludena and Panormita, nothing of this kind is found. Indeed, the very oath to speak the truth, which the witness must take at the beginning of the examination, is not even present in the approved forms. For the clerk, in the narrative section, states that the plaintiff and the witnesses swore. But, according to the common opinion of the Doctors, in order for the taking of the oath to be considered valid, it is necessary that the clerk, in the dispositive section, state that the witness swore. Moreover, the questions which are put to the spouses or the witnesses, and the answers which they give, must be written down by the clerk in full, in the same order in which they occur; but in the narrative section, the questions are not mentioned at all, while the answers are written in a more free style. Again, at the bottom of each examination, the subscription of the witness, the judge, the defender of the marriage, and the clerk must be affixed; but in the narrative section, only the witness subscribes. Finally, in judicial proceedings, there is nothing more ancient than the preservation of equality between the parties in dispute; hence, if witnesses are brought forward by one side, witnesses must also be brought forward by the other. But the man, Isidorus Musso, was always stubbornly defiant, and the defender of the marriage did not even consider calling witnesses. Indeed, neither Rosalia's mother, nor her aunt, were examined, although Rosalia asserts that she was afraid of her mother and aunt. In this matter, it is concluded that those things which the plaintiff alleges, in the absence of a priest, should not be readily accepted, but rather that witnesses should be summoned to testify to the celebration of the marriage, and others who were present at the ceremony, or who in any other way have information about the matter. And the proposed doubt asks that it be answered negatively; or, if that is not possible, that a new process be carried out entirely, observing in all respects the established form. *Benedicti XIV,

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Dei gratia, et Sacrae Congregationis Consilii die 22 Augusti 1840.* With these things stated, the purpose was to address the following:

[*Latin ed. p. 433*]

PALERMO. A question arises as to whether the judgment of the Cephaludensis ecclesiastical court should be confirmed or overturned in this case.

RESOLUTION. The Sacred Congregation of the Council, after deliberation in a closed meeting on February 27, 1886, decided to respond as follows: A new process should be conducted in the Panormitana court, according to the instructions to be given by the defender of the marriage bond, ex officio, by the Sacred Congregation. The Panormitana court, having been informed of this rescript, and following the given instructions, initiated a process, subjecting Rosalia to further examination, as well as her mother and father, and also seven witnesses. Having completed the new process, it was sent to the Sacred Congregation, indicating that Isidoro Musso had again been stubbornly contumacious, and had not presented any witnesses.

Based on the new evidence, the votes of the consultants, and the observations of the new defender of the marriage bond, the following conclusions were reached: The canonist stated that he could not retract from his vote, and that the objections raised by the defender of the marriage were devoid of any value, because the Benedictine Constitution, together with the Instruction of the Sacred Congregation, published in 1840, which applies in substance to courts of first instance and appeals, had been applied in this case. To demonstrate this, he noted that for the Sicilian nation, in the appeal process, the Constitution of Pius IX, "Multis gravissimis," was present, and that the actress, by appealing, had rigorously executed this Constitution.

According to the aforementioned Constitution, it is stipulated, under penalty of nullity, that a defender of the marriage must be present in all acts. And in the process, there must be an election of such a defender in both courts, and his presence must be required in each act of the case. Witnesses must be required in the judgment, and the witnesses summoned must have testified, and before the defender of the marriage. In the Instruction of the Sacred Congregation, it is stated that witnesses must be from both sides, according to Text in chapter *Literae* regarding fraud and malice, and that they must be summoned after they have been presented, as in Volume XX, page CCXXXVII, 28.

[*Latin ed. p. 434*]

434 In Panormitana, both parties were contending. It had been cited the actress, and the witnesses of hers had been cited, who testified under oath. Isidorus Musso had also been cited, but he was contumacious and did not present any witnesses. After this, he concluded that no head of the

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Constitution of Benedict could be found in which the penalty of nullity was imposed in both processes for neglect. Descending to the consideration of objections, he said that the conclusion of the defender did not follow, as if from a premise, § 7 of the Constitution of Benedict. For in this, it is indeed decided that the defender shall be present in all acts of the judgment, having faithfully performed his office under a prior oath, but it is not decided at what time it is necessary for him to be chosen by the judge: hence, it suffices that he be constituted before the first act of the judgment. Now, he said, in the Diocese of Cephaluden: then the judgment began, when the second Panormitana process was completed. For no witness could be found in the Diocese of Cephaluden who could testify about the matter, as in the case, and give evidence. The spouses belonged to the Panormitana Diocese; there witnesses could be found, and there the traces of the facts could be investigated. Therefore, on February 11, 1884, the Bishop, exercising his office, in which no part seems to be granted to the defender of the marriage, ordered that the first process completed and judged in the Panormitana court be transmitted to him, and he delegated the same court to hear other witnesses according to the Constitutions of Benedict XIV and Pius IX. He was preparing and arranging what was necessary for the exercise of the judgment. These are acts of jurisdiction, not of judgment. And it is read that the defender of the marriage was present in all acts of the judgment, both in the first and in the second Panormitana processes. Both the first and the second processes of the cause were presented to the Bishop in Cephaluden, in the first session of the judgment; it is not read that the Bishop opened any process in the absence of the defender. If the defender was already constituted before the acts of the judgment began, even from the first hour; and if the defender was present in all the acts, it follows that there is no defect in the process.

[*Latin ed. p. 435*]

PALERMO 433: "The appeal process for the second instance has concluded. The defender could have postponed the session; he could have requested a postponement to the following week. If he did not do so, it is inferred that he was prepared to proceed with the case and to fulfill his duty. Regarding the second objection, namely, that due to the negligence of the Bishop of Cephalonia, the defender of the marriage could not transmit the questionnaire to the court of Palermo, apart from the one that the defender of Palermo was required to prepare; it is noted first that the defender of the marriage could postpone the session in order to again present witnesses before the Bishop of Palermo, so that, according to his questions, the witnesses could be examined. Since he did not do so, he considered it unnecessary to present such questionnaires in order to fulfill his duty. But this omission does not render the process null. Indeed, according to the Constitution of Benedict XIV, the necessary duties of the

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defender of the marriage, from which he cannot be excused, lest the process be rendered invalid, are: to be summoned to any judicial act, to be present at the examination of witnesses, and to defend the validity of the marriage, both orally and in writing. Furthermore, he asserts that all of these were fulfilled in the first and second processes in the court of Palermo. As for the manner of fulfillment, that is, what the defender must say or do, and how he should conduct himself in the execution of his office, it seems to be left to his judgment, and this is inferred from the words used by Benedict XIV when speaking of the duties of the defender of the marriage, namely: 'and to bring forward everything that he will deem necessary to support the marriage.' Therefore, if the defender deemed it sufficient to question, rather than to write, he fulfilled his duty through questioning; because the intention, and not the command, is to be followed, as is stated in the instruction of the Sacred Congregation concerning the questionnaire to be submitted by the defender of the marriage. For in it, while the nullity of the process is sanctioned by the absence of the defender of the marriage, it is also stated that..."

[*Latin ed. p. 436*]

436 In Panormitana, siquidem quidquam dicitur, nulla mentio de tali irritatione in ea invenitur. Iuxta Constitutionem Benedictinam, defensor matrimonii potestate pollet interrogandi, non vero officium necessarium atque substantiale habet natulas interrogationum transmittendi; quas si non transmitit, non ideo processus nullitate laborare dicendus est. Nullitas habetur in substantialibus, non in accidentalibus erroribus: substantialis error esset absentia, in actis iudicii, defensoris matrimonii, quia nemo esset, qui matrimonii vinculum tueretur. Modus inquirendi veritatem, adminiculum est iudicii, si substantia facti dignoscitur. Cum sine notula interrogationum a defensore matrimonii conficienda, substantiale factum dignoscitur, et interrogationibus defensoris suppleverunt interrogationes iudicis, acta iudicii nullitatis vitio imputanda non sunt. Quoad iuramentum a testibus et coniugibus praestandum canonista, citans verba, quae in utrisque processibus leguntur, denegat in Cephaluden et Panormitano processu vestigium non inveniri, quod ii iuraverint, se vera dixisse, atque sive interrogationes propositas, sive responsiones datas ante processus publicationem se numquam evulgaturos. Denegat pariter quod cancellarius exscribere debeat per extensum, eodem ordine, quo locum habent, interrogationes, quae sive coniugibus, sive testibus fiunt, ac responsiones, quae ab ipsis redduntur. In capite, ab instructione S. O. C. citato, non legitur interrogationis formam scribendi necessitas. Cancellarius scribere utique debet depositiones tenore dictantis iudicis; sed non tenetur sub poena nullitatis ex integro interrogationem referre, nisi eam iudex dictaverit. Non bene se gessit iudex non dictando interrogationem, sed defectus huiusmodi non efficit ut processus irritandus sit; quandoquidem ex

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responsionibus interrogationes facile cognosci possunt. Tandem, a veritate abhorrere ait, quod in calce examinis non nisi testis subscriptio reperiatur, quandoquidem.

[*Latin ed. p. 437*]

PALERMO! After 437 days following the deposition of the aforementioned woman and her signature, the signatures of the defender of the marriage and the judge's clerk are also read. In the second process, all the signatures are present, both of the witnesses, as well as of the judge, and also of the defender of the marriage and the clerk. Regarding the other matters which concern the merit of the case, namely, whether there truly was no marriage due to a lack of consent on the part of Rosalia, he does not believe it is appropriate to respond, because she, according to him, refuted this in the first testimony, before the objections were raised by the defender. THEOLOGIAN, after having warned of a new process according to the rules presented by the defender of the marriage, and having, as much as possible, completed it, and having carefully and diligently examined it, adds that he confirms his previous judgment even more and more, inasmuch as the new testimonies and new arguments demonstrate, with all evidence, that this marriage, on the part of the woman, was not entered into except by force and by a grave injustice inflicted. And he endeavored to demonstrate this from the preceding, concurrent, and subsequent circumstances of the marriage. And with regard to the first, from the deposition of Rosalia's mother and of several witnesses, who all deserve complete trust, it was learned that the mother and stepmother mistreated the girl with all kinds of torments, in order to extort from her consent to marry the man from whom she was repulsed, and, concealing the voice of nature and of her blood, they did not remove their hands from the lashes, until they had achieved their intended goal. From these things, it is manifest that, in this case, all and each of the conditions were present which are required by moralists, so that fear and force inflicted render the marriage null. Indeed, there was a reverential fear which, considering the girl's tender age and her nature, which was unable to be softened, and her readiness to obey threats, both from her mother and stepmother, and their almost constant indignation, constituted a fear that fell upon the man in a constant manner. There were reproaches, threats, deprivation of food, daily and most severe beatings, from which she could not escape at all, because she was in a state of complete and absolute...

[*Latin ed. p. 438*]

438. In Panormitana, ea potestate constituta erat. Cum ergo timor Rosaliae incussus fuerit, absolute gravis et iniustus, matrimonium eo ipso sequutum, nihil dicendum esse. Relate ad circumstantias matrimonium concomitantes Rosaliae matrem referre, et testes omnes confirmare, quod

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Rosalia primae cappellani interrogationi nihil respondit, quodque ad vestium fractionem ex parte matris, atque ad materterae vilicationem, consensum tandem praebuerit. Hisce positis superfluum esse automat animadvertere, quod etiamsi primae cappellani interrogationi respondisset affirmative, hic tamen consensus validum non reddidisset matrimonium, quia nec prius constituta fuit in plena libertate, neque remota fuit causa vis et metus, quin imo mater eius et matertera celebrationi assistere voluerunt, ut eorum praesentia Rosaliae animus magis magisque deprimeretur. At hoc silentium manifesto indicio est quam invito animo consensum denuo praebuerit, ad quem ex eius ore obtinendum *novae minae* necessariae fuerunt. Nam quid sibi vellet illa vestium fractio optime noverat Rosalia, quae in vultu et brachiis, ut refert unus testis, adhuc *graeferebat vestigia laesionum*, quae passa fuerat. Quam Rosaliae reluctantiam non minori evidentia ex circumstantiis matrimonium consequentibus erui; eius siquidem mater enarrat, quod filia rei uxoriae nullo modo se praestare volebat, et quod, cum commode potuit, domum maritalem deseruit, ut apud Lo Castro habitationem se configeret. Hae circumstantiae, theologus observat, matrimonium consequentes unice referuntur, quia antecedentem Rosaliae aversionem magis magisque confirmant. Concipi enim nequit haec reiuctatio ad matrimonium consummandum atque pacifice cohabitandum cum viro, quem libere et cum interna animi propensione in maritum elegisset. Ceterum, prosequitur, etiamsi libenter matrimonii consummationi operam dedisset, atque ex eo prolem suscepisset, noli tamen hae via revalidari potuisset, quia impedi-

[*Latin ed. p. 439*]

It was manifestly a matter of public knowledge, and a new celebration before the parish priest was necessarily required. Therefore, whether the circumstances preceding, accompanying, and following this marriage are considered, or the number and quality of the witnesses who confirm them, it is concluded that the marriage was null due to lack of consent. Regarding the process, which was completed for the third time, it was noted that the testimony of the husband was lacking; but since this defect arose solely from the obstinacy and open defiance of the husband, it is not just that it should be turned into a detriment and harm to the innocent party. Nor are there lacking examples in which the Sacred Congregation has declared a marriage null, even if the testimony of the husband could not be obtained. Indeed, this obstinacy of the husband offers a strong argument to confirm the truth of the other party's testimony, and there is no doubt that he would have complied with the court's summons if he could have proven the assertions of the opposing party to be false and mendacious. Therefore, it is concluded that the proposed doubt should be dismissed with an affirmative response.

THE DEFENDER OF THE BONDS OF MATRIMONY, in the first in-

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stance, noted that the acts of the new process were completed in the absence of the husband, and in the absence of his relatives and affine. And such conduct on the part of the husband and his relatives is of significant importance. For the matter is presented in such a way that all of Isidorus, along with his relatives, are eager to influence the judgment, if the facts are as Rosalia recounts; and conversely, all of Isidorus and his relatives are to be excluded from the judgment if the facts related by Rosalia are false, and the marriage is valid. For, it is stated, the truth is that, on the contrary, Rosalia was, at the age of Ham, forced by her mother and grandmother to consent to the marriage, while Isidorus was entirely unaware of such coercion. Therefore, Isidorus could have confessed in court that Rosalia resisted him, without revealing his own shame, because the coercion did not originate from him. Nor would he bear it ill.

[*Latin ed. p. 440*]

440 In Panormitana, the marriage is annulled; because a man of sixty years cannot hope to, nor does he desire to, restore the accustomed intimacy of married life with a woman who, after only fifteen days of cohabitation, abandoned him thirty years ago, and who, from another man, has had ten children, besides numerous abortions. Conversely, if the marriage was coerced, by force, fear, or if there was a defect in the marriage itself, Isidorus, and his relatives and kin, cannot help but undertake the ungrateful task of revealing the falsehoods of the arguments presented in Aversa. Thus, Isidorus remained filled with anger, hatred, and animosity, provoked by Rosalia, his former lover, and by all those who fostered such a controversy. Furthermore, he observed that, in the absence of Isidorus and his relatives, the defender of the marriage and the judge, using great diligence and employing subtle questions regarding the indications of the alleged fear and concerning the events preceding, accompanying, and following the celebration of the marriage, could easily have elicited false testimonies from those present. But nothing of this sort, whether by the judge or by the act of vindicating the sacrament, appears to have been done, as evidenced by the process records. Indeed, the chancellor does not even fully recount a single one of the questions posed, either to the spouses or to the witnesses. Moreover, the testimonies of the witnesses are recorded in such a way that they appear to have been prepared in advance, rather than being given in response to direct questioning. In this manner, it is easy for witnesses to conspire and recount events that are utterly divorced from the truth, without the lie being detected. Finally, he noted the most serious fact recounted by Rosalia, namely that, when questioned by the chaplain, as to whether Isidorus would accept her as his wife, her mother answered affirmatively for her. And he requests that Rosalia reveal the reason why she delayed the accusation of the marriage for more than twenty years; so that she only contested it after the death of Franciscus, the witness who was the greatest

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of all exceptions. In this and other similar instances, the defender of the marriage should have diligently investigated, but the proceedings of the case were so carelessly completed that the judge and the defender of the marriage did not...

[*Latin ed. p. 441*]

PANORMITANO 441 Unless, that is, you say that they appeared to have been present at the examinations of the witnesses, and it is often necessary that the signatures of the judge, the defender of the marriage, and the notary be appended to each examination of the witnesses. Finally, the canonist is mistaken when he asserts that the Bishop of Cephaludensis validly decreed the hearing of new witnesses, even in the absence of the defender of the marriage, because, as he himself says, these are jurisdictional acts, not judicial ones. Indeed, it is well known that the decree to hear new witnesses, after the cause has been concluded, or in an appeal, is not merely a judicial act, but rather one of the most serious of judicial acts. Nor does what the canonist has presented in defense of the process of Cephaludensis adhere to the truth; therefore, the customary formula of doubt is answered negatively. With all of the above stated, the following question was proposed: Whether there exists a nullity in the marriage in this case. RESOLUTION. The Sacred Congregation of Councils, after examining the new documents presented, decided in a general meeting on August 20, 1887, to respond: Affirmative. FROM WHICH IT IS UNDERSTOOD: I. For a marriage to be validly contracted, a legitimate consent is required. II. And this consent is considered legitimate when it is true and free; or when the expression of the will, made manifest through sensible signs, is in conformity with the interior act of the will itself. III. Therefore, what is pronounced under duress and fear is a kind of fiction, because fear damages the essential faculty of the will, which consists in freedom, with which the will naturally develops. IV. Reverential fear of a stern mother is of the same gravity as fear of a father; and therefore, it takes away freedom and invalidates the marriage. V. It is the universally accepted opinion among the Doctors that a marriage begun from grave fear is not free.

[*Latin ed. p. 442*]

442. The marriage of Panormitano, unjustly procured, differs from other contracts in that, by its own law, it is invalid and null.

V. The reason for this distinction lies in the fact that the bond of marriage is perpetual; therefore, that which is contrary to perpetuity destroys the marriage.

VII. In considering the measure of fear, besides the gravity of the evil, account must be taken both of the person upon whom the fear is inflicted, and of the one who inflicts the fear.

VIII. In order that a marriage, rendered invalid by force or fear, may

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be ratified by subsequent cohabitation, two things are required: namely, marital affection must be present, and there must be a long and voluntary mutual cohabitation.

IX. In the forum of conscience, no length of cohabitation, after the cause of fear has ceased, can ratify the marriage, if the intention of ratification is absent.

X. Indeed, neither cohabitation with marital affection, nor even long and free cohabitation, can validate it, but a new consent must be given before a priest and two witnesses, according to the decrees of the Council of Trent, if the impediment is public.

XI. An impediment is considered public when it is known to the priest and two witnesses, or when it can be proven in the external forum by two witnesses, free from any exception, or by those to whom nothing can be opposed.

XII. When it is a question of the dissolution of marriage, which is a great sacrament, all diligence and caution must be exercised, so that, as far as human frailty allows, all error and fraud may be excluded.

XIII. Therefore, whatever has been done without the legitimate citation or notification of the defender of the marriage in court, is to be considered null and void, and to be treated as if it had never been done.

XIV. The aforementioned defender must, by questioning witnesses, whether present or absent, or by examining them himself, present the questions to the spouses themselves, and exhibit the documents, but these must not be opened except during the examination.

XV. After the individual witnesses and spouses have been examined,

[*Latin ed. p. 443*]

443. The parties must swear that they have spoken the truth, and that they will never, before the publication of the proceedings, divulge the questions asked or the answers given.

X V I. The questions asked and the answers given must be written down in full by the Chancellor, in the same order in which they occurred.

X V I I. At the bottom of each examination, the signature of the witness, the judge, the defender of the marriage, and the Chancellor must be affixed.

X V I I I. In the first proposition of the cause, it must be stated that the Holy Congregation has decided to initiate a new process, because the completed one was not carried out according to the norms indicated by the letters of Pope Benedict XIV and the Sacred Congregation of the Council, dated August 22, 1846.

X I X. In the second proposition of the marriage, the nullity must be declared, because it was judged that the marriage was entered into by the woman under a grave fear, unjustly caused by a circumstance that freed her from the cause.

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REGIEN. CURAE ANIMARUM. September 10, 1887. Session 21, Chapter 6, On Reforms.

COMPENDIUM OF THE FACTS.

On January 24, 1885, the following case was presented before the Sacred Congregation of the Council:

- The office of Prefect of the collegiate and parish church of St. Nicholas was vacant due to the death of the priest Guidetti, the first dignity of the chapter, the richest, and responsible for the care of souls of the parish, which was to be provided by the Holy See after the presentation of the patrons.

(1) The Bishop, as was said in another judicial proceeding, considered himself the sole patron, and nominated Aloysius de Medici to the vacant office, whom he called a relative of the founders. However, there were those who opposed this nomination, saying that the nominee possessed other, very lucrative benefices, and lacked all knowledge. To this, the Bishop replied that (1) *Recole, Vol. XVII, 526; the aforementioned case was related there.*

[*Latin ed. p. 444*]

444 REGENCY. These were matters concerning benefits, but it was deemed that the position of "Medici" could be considered a suitable benefit, for one who habitually has care of souls. Hence, in the defense of Aloysius of Medici, it was stated that the Prefect of St. Nicholas was not a true and effective parish priest of St. Nicholas. But, for the sake of truth, it should not be omitted that in folio 11 of the Congregation, it was also stated that the prebendary has an annexed care of souls, and in another place, that he is entrusted with the care of souls. Meanwhile, it is certain that, regarding the doubt at that time concerning whether and to what extent the institution was valid in this case, the Sacred Congregation answered: "Affirmatively, with the favor of the priest De Medici." When the advocate Cassoli protested, who wished to prevent the effect of the institution until a judgment was rendered concerning the existence of the patronage and the granting of a subsidy in his favor, the question was again proposed on May 16 of the same year, 1885, under the usual formula, whether one should adhere to or recede from the decisions in the case. To this, the Most Holy Fathers responded: "Thus, in the decisions, and furthermore, saving the right of the advocates to act both concerning the property of the patronage, and concerning the requested subsidy before them, as and to the extent that it is due by law." Thus, the cause concerning the institution and actual provision of the parish seemed to be definitively concluded, while only the matter concerning the property of the patronage and the assignment of the subsidy remained open; and

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it would have been hoped that the former would not be revisited. But events belied this hope... The question of the institution of the priest De Medici is treated in the present document. But, since other main points of contention have arisen, something has also been added concerning those events that occurred after the sentence of the Sacred Congregation. The priest De Medici immediately, after receiving the resolution of the Sacred Congregation, took steps to have the apostolic bull of institution issued, in which, among other things concerning the nature of the prebend, the following were affirmed: "To him is found to be annexed the habitual care of souls of the beloved sons, the parishioners of the aforementioned parochial collegiate church, even of the existing church." These words, it is said, were inserted with the advice and effort of De Medici himself.

[*Latin ed. p. 445*]

REGIEN. 445. The execution of the Bull was entrusted to the General Vicar of Regiae, who presented the aforementioned proposal to the aforementioned priest, Father Aloysius De Medici. He did not require any examination of his suitability, but rather, he completely trusted the father of the priest De Medici, who asserted that no examination was required by the Apostolic See, but only the degree of Doctor within a year. Thus, the institution given to the priest De Medici was a simple one, as if it were a benefice and not a cure; but since the matter concerned a real institution, or an admission into possession, then the father of the priest De Medici, in turn, used words and presented documents to the effect that it should be considered as a benefice, as if a valid institution had preceded it, namely, the taking of possession of the sacred tabernacle, the baptismal font, the confessional, and so forth. However, the Apostolic executor resisted, and did not proceed further. Nevertheless, the father of the priest proceeded, and presented the Apostolic Bulls to the regional authorities, which he also obtained a short time later, under certain conditions that needed to be clarified. Moreover, it was not enough, because, in order to further complicate matters, the priest De Medici repeatedly attempted to take possession by force, first of the parochial house, then of the office; and when he could not do more, he appointed his own vicar as the administrator, whom the court had assigned to the vacant benefice of the parish. The father, however, managed the goods of the rectory from the administrator's office and, as a guarantee, gave a mortgage on goods belonging to another benefice, possessed by his son, for 30,000 livres. Besides the above-mentioned matters, there is also the issue of the extension of the doctoral examination. Indeed, as the first year from the granting of the benefice was drawing to a close, De Medici addressed prayers to the Most Holy [Father], requesting an extension of two years, again alleging, among other things, that it concerned only a habitual care of souls. The advocate obtained a rescript, but the Bishop, who had now succeeded the previous one, refused to execute it. And thus,

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another point of contention was added to the previous ones.

[*Latin ed. p. 446*]

46. REGIMENT. A SYNOPTIC DISCUSSION: DEFENSE OF THE CURIA. The advocate, defending the interests of the Curia, first points out and refutes the varied and contradictory arguments of the opposing side concerning the responsibility incumbent upon those entrusted with the care of souls. Indeed, the late Bishop Rocca wrote: "He possesses only a habitual care, and that only one, habitual care, not an actual one," and elsewhere: "He possesses only a pure and habitual care in the Church." The defender of the priest De Medici, in his argument before the Sacred Congregation, added: "The 'habitual care' pertains to the office of the pastor." And again: "He to whom only a habitual care of souls adheres," was repeated in the supplicatory petition for the prolongation of the examination of the Doctor of Sacred Theology by the Sacred Congregation. But while De Medici strives to demonstrate this in Rome, conversely, at home, he contends that the pastor possesses an actual and proper care of souls, and that this care is indeed actual, as he attempts to prove with alleged bulls, resolutions, and especially with a decree of the Sacred Penitentiary of May 6, 1818. In this state of controversy, the advocate suggests something about the nature of actual and habitual parochiality, and then proceeds to demonstrate that the actual care of souls belongs to the pastor. He recalls that it is said that "he possesses only a habitual care who, in fact, neither exercises it nor is able to exercise it; but he can and ought to provide, to the extent that it is exercised by someone, under the title of vicar." On the contrary, "he possesses an actual care who, in fact, has the power to exercise it." *Bouix De par. p. 1, sec. 3, c. 1.* Therefore, "a parochus habitu is by no means a true parochus, but such a title is valid for preserving certain rights for him;... (he) not only does not minister according to his office, but he does not even have the right to minister," *ibid.*; and such a benefice is considered to be the same as a simple one, *Barbosa De par. p. 1, c. 2, n. 51*; and therefore it is conferred without the concurrence of the Reclusius, p. 1412.

[*Latin ed. p. 447*]

REGIEN. 447 n. 57, neither does habitual care require mention for the validity of apostolic grace (Rota, before Motines, December 492* n. 6). Furthermore, "when mention is made simply of care or of a parish priest, it is understood to be of an actual [care/parish priest];" Barbosa, loc. cit., with others. Indeed, before the erection of the collegiate church, the church of St. Nicholas was a parish church and, by right, belonged to the patronage of the Zoboli family; this is certain, and is confirmed by the very bulls of Sixtus IV and other certain historical documents. Therefore, when this parish church was converted into a collegiate church and elevated, another could not be assigned the burden of care, other than the head of the college,

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that is, the provost. Indeed, one provost was established as immovable from among all the priests of the church by a second bull of Sixtus IV; the others, however, were "removable at the will of the patrons." Moreover, by canonical laws and the long-standing usage of centuries, it is provided that a parish priest must be perpetual. Such discipline of churches is mentioned by Pignatelli, vol. 9* cons. 143* n. 2, and was decreed by the Council of Trent, session 24, chapter 13, concerning reform. Furthermore, according to Lotterius, *De re benef.*, book 1, page 20* n. 122*, and Boirix, *De par.*, page 1, chapter 9, § 2, prop. £, this is the most important criterion for recognizing a true parish priest, namely, to consider whether he is the one who holds the title of care, to whom the parish is conferred in title and perpetually, and who, in turn, exercises the care in his own name. For "it must be noted that care and the exercise of that care are different. Indeed, care or the right of a parish cannot be demanded other than through a title in that church; but the exercise [of care] simply does not require a title, but is entrusted temporarily and removably." (Lotterius. To which Bouix adds: - ibid. - It is of the essence of a parish that the office be exercised in one's own name.... (Therefore) priests who assist parish priests under the names of chaplains or vicars—exercise the office of caring for souls, and they do so. Nevertheless, because they perform this service not in their own name, but...")

[*Latin ed. p. 448*]

448. Regarding vicars, that they are not to be considered as parish priests, but rather as substitutes for others, this is the constant teaching of the Roman Congregations and of the canonists. > Therefore, the party from Aversa, noting that the prelate has a vicar in the care of souls, wrongly asserts, according to the patron, that this vicar is the true and proper caretaker of the parish, and not the prelate himself. For this vicar does not hold a benefice, but receives a salary from the prelate, and retains the title of assistant curate, a designation commonly used and also found in the records of sacred visitations. Furthermore, the records of visitations are to be held in the highest regard in determining the status of churches and benefices, as the Rota teaches in Ursaya, volume 4, dispute, page 2, section 2, number 31. And in this matter, these, or the most ancient, documents provide the most certain evidence in favor of the curial view, beyond all doubt. Indeed, in the visitation of Bishop Picenardi in the year 1702, the following is recorded: "The church of St. Nicholas is a parish church, and although the prelate is absent in the curia, nevertheless, an examination is always made regarding the care of souls; which care is exercised by the prelate himself, and also by the assistant curate." And Bishop Castelvetro in the year 1769 noted: "The parish of St. Nicholas, in the church of St. Nicholas of that saint, belongs by right to the patronage of the family of De Zobulis and their heirs, to whom the care of souls belongs to the prelate

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for the time being of said church, who nevertheless also makes use of the services of an assistant curate approved by the synodal examiners." This testimony has even greater value, because it was given by a bishop to whom the Holy See had entrusted the new circumscription of parishes within the diocese, and who, in other chapters, had clearly stated that the proper pastor of souls was the vicar, and not the dignity of the chapter. Therefore, it seems undeniable that at the beginning of the 18th century, the prelate fulfilled the office of parish priest; and that this right and office was not subsequently taken away from him has been demonstrated by numerous documents. Further indications of the actual care incumbent upon the prelate are:

[*Latin ed. p. 449*]

449. REGIMEN. These arguments are quite clear: when the pastor is absent, a spiritual administrator is appointed to the parish, as has been demonstrated in the year 1884 and in other instances; therefore, according to the sense of *cap. 18, sess. 24 Tridentini*, the care of souls is attached to the office of pastor, and a coadjutor pastor is nothing other than a simple and temporary vicar of the pastor. Furthermore, the pastor celebrates Mass for the people, or he grants alms to a coadjutor pastor, so that he may be substituted by him, as is attested by several elderly priests, who were coadjutor pastors in that church, or by those present. Moreover, it is well known that a pastor is not required to wear the habit for celebrating Mass for the people, but rather, he is a pastor in deed; cf. Lucidi, *De visit.*, vol. 1, page 425, § 356. Finally, from the day he receives his investiture, the pastor has always exercised sacramental jurisdiction, and he has a designated place, as it were, in the church, to perform this office; as is attested by several priests, along with the curia. Therefore, it clearly demonstrates that he is to oversee the care of souls, as Bouix rightly points out in *De par.*, book 1, chapter 9, § 2, paragraph 1, corollary 4. With these premises, the petitioner proceeded to address each of the specific doubts. First, he spoke of the falsification of the apostolic letters. Regarding this, he considered that the Bishop had presented several inaccuracies to the Sacred Congregation, such as claiming that the "De Medici" were relatives of the founders, namely, "of the house and family of Zobuli," which is clearly false; furthermore, he asserted, quite falsely, that the presented candidate, although of slow intellect, was nevertheless suitable, because a benefice was involved, to which a simple habitual care was attached. Indeed, this assertion was either deliberately fabricated, and undoubtedly vitiates the rescript according to established principles of law; or it arose from some haste and ignorance; and nevertheless, it certainly compromises the apostolic letters. For, as is taught by Riganti, *reg. 57, Acta, Tom. XX*, page COXXXVII, the mention of the care of souls is so necessary in the rescripts,

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that without it, the concession is null and void.

[*Latin ed. p. 450*]

450 REGION. Cancel, n. i 4 - ibi - "The second circumstance which must necessarily be expressed is whether the benefice is a simple one or a curacy, for if this is not stated, the grant remains null and void." And the reason is that a much greater suitability is required for governing curacies than for simple benefices. Indeed, in this case, this circumstance of the curacy would have been of paramount importance, for since we are dealing with a person who was deemed unfit to exercise the actual care [of souls], certainly, if the matter had been known, the Holy See would never have granted its approval, nor would it have conferred a parochial benefice upon an incapable person. Furthermore, the advocate adds that many interests are involved in the declaration of apostolic bulls, the revocation of nominations, and the assignment of the curacy, almost habitually, to Aloysius de Medici, while reserving the actual exercise of the office for another priest; for not only would this be of little benefit to the spiritual welfare of the parish, but it would also cause scandal to many who would see dignities and lucrative benefices conferred upon the unworthy, and moreover, it would again put the goods of the prebend in jeopardy, to which the Jews, De Benedetti, greedily cling, carefully observing the times and circumstances: for these same Jews had sold their rights in the goods of the collegiate body and the prebend. The Jews could not claim the goods of the prebend, since the care of souls was involved; which they could easily do if the Holy See declared that the care of souls was not attached to the prebend. Regarding the second question concerning the examination of suitability, the advocate notes that this, like the subsequent questions, should only be considered subsidiarily, namely, insofar as the question of the provision of sustenance is concerned. However, the wording or structure of the question is to be criticized; for in asking whether the prebend of St. Nicholas is so attached to the actual care [of souls] that an examination of suitability is required, it seems to place in jeopardy a universal and sacred principle of law, about which much is read in Benedict XIV, De Syn. I. 4. c. 8 n. 9, namely, that in a parish of free collation, the consent of the patron must precede, while in a parish subject to the patronage, an examination of suitability is required. This legal rule, therefore, should also be diligently observed, as the Doctors teach.

[*Latin ed. p. 451*]

REGIEN. Vol. 4, because it is the safest way of knowing and preventing that unworthy and unsuitable priests are appointed to parishes. Indeed, it may be said that this matter has been overlooked in other instances; for what has come to light has happened only through the favor of the last prefect, Guidetti; and although this situation may have existed in other times, even from times long past, it could not have been observed; for the

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Council of Trent, in Session 13, Canon 7, forbade the assignment of parishes without a prior examination, "even under the pretext of any privilege or custom, even if prescribed from times long past." Furthermore, the Bishop notes in the sacred visitation of the year 1702, as mentioned above, that in ancient times, it was always customary for a candidate to undergo an examination of suitability before receiving the appointment. This is confirmed by subsequent apostolic bulls concerning appointments, which are recorded in the documents. Thus, for example, in the year 1746, it was ordered that the proposal of J. F. Zobuli be considered "if, through a diligent examination, by you, with the assistance of examiners designated for this purpose by the Council of Trent, he is found to be suitable." In the third case, the question is about the extension of the examination. But when it is requested "until the time when the priest does not personally exercise pastoral care," the patron observes that the term of the extension is left to the discretion of the aforementioned De Medici. Therefore, an indefinite extension is requested, which will probably become permanent. For unless there is a necessity for performance, there is no obligation; nor is it rightly understood under the condition that the debtor wishes it, as Voet notes in *Pandectae*, Book 44, Title 7, paragraph 1. Therefore, under the guise of an extension, a true dispensation is requested. This, the speaker proclaims, is inappropriate; for it contradicts the fundamental law, which, even before the decree of Trent, cautioned that suitable candidates should be presented for the position; and it contradicts not the favor of some passively called person, that is, someone from the house or family of the founders, but the favor of a priest, who, being inscribed in the genealogy of the founders through the medium of five women, is therefore the most distant relative to them; it contradicts this without any benefit to the souls of the parish; but rather, perhaps, with harm; for...

[*Latin ed. p. 452*]

452. It is not fitting to grant the title and the goods of a parish to an incompetent person, and to entrust the duties to another with a small stipend. Furthermore, it is said that this will cause astonishment and scandal among the people. Moreover, this would involve a dispensation, which would wound the ecclesiastical discipline, since a dispensation would be granted in a very serious matter; it would also involve the risk of confiscation of the parish's assets; and all of this, so that the priest and his father might become richer, who, already possessing three lucrative benefices, are already being driven through the city in a carriage. Finally, concerning the execution of the decree regarding the extension of the examination for the doctorate, it is related that the Ordinary restored the case, and did not wish to carry out the decree, first, because it had been obtained by deceit, namely, by saying that it concerned a benefice to which only habitual care was attached; second, because the priest of Medici, according to the testimony of the Bishop

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of Rocca himself, was deemed incapable and unfit to take the examination for the doctorate, and therefore the extension seemed absurd; and finally, because the circumstances had changed; for before the decree was put into execution, the new Bishop of the Diocese arrived, and he revealed the true state of affairs and the presumptions of De Medici regarding actual care; therefore, he considered it reasonable and proper to suspend the execution until the Sacred Congregation could pronounce judgment on the entire matter. Nothing was produced on the part of De Medici. Hence, the following points were raised for consideration:

I. Whether there is a basis for the execution of the apostolic letters regarding the possession [of the benefice], or rather, whether there is a basis for an appeal in this case. And, to the extent that the answer is negative regarding the first part, and affirmative regarding the second.

II. Whether the parish of St. Nicholas is so attached to the actual care [of the benefice] that an examination is required for the parish, or rather, whether it is exempt from such an examination in this case.

[*Latin ed. p. 453*]

REGIEN. 453 And whereas, concerning the first part, affirmation is made; concerning the second part, negation. III. Whether it is necessary to consult with the Most Reverend regarding the extension of the examination until the time when the pastor personally exercises the care of souls. IV. Whether the indult of September 30, 1886, concerning the extension of the doctoral examination in this case, is to be executed. RESOLUTION. The Sacred Congregation, having considered the matter, on September 10, 1887, decided to respond as follows: Regarding I, the institution dated October 6, 1885, is to be considered null; and, considering the actual care of souls that is inherent, the execution of the Apostolic Letters must be given, observing the form of the Council of Trent, chapter 18, Session 24, concerning reform, namely, a prior examination of suitability, within two months and more. Regarding II and III, see the provision in the first. Regarding IV, negatively. FROM WHICH WE MAY GATHER: I. The greatest difference lies in the distinction between one who has habitual care and one who has actual care: for the former is not able to exercise care; whereas the latter, in fact, exercises it; hence, the habitual pastor is not a true pastor, but only holds a title, which preserves certain rights for him. II. Habitual care is considered to be a simple benefice which is conferred without concurrence; whereas, for actual care, the concurrence of the superiors is required; and for the same care, the patronage of the Church, an examination of suitability is required. III. It has appeared that the pastoral office attached to the rectory constitutes actual care; hence, the Sacred Congregation ordered that the Apostolic Letters be executed,

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after a prior examination of suitability, according to the form of Trent.

[*Latin ed. p. 454*]

454 TRANI. CANONICAL DECREE of August 20, 1887, concerning EMPTEUTOSION and ABSOLUTION. By summary proceedings. Joseph Lamacchia, from the parish of Trinitapoli in the Diocese of Trani, by his last will and testament, by which he died on December 2, 1862, bequeathed a plot of arable land, extending 174 *arae*, under the following condition: that it should be held by the clergy of Trinitapoli; but if his nephew, Joseph Landriscina, a cleric, should receive Holy Orders, or if, in the future, someone of his family should be called to the service of the Lord, this bequest should be granted to the clergy of Trinitapoli, but it should be returned to them immediately after the death of such person. The testator wished these obligations to be fulfilled: that every year a solemn Mass should be celebrated on the anniversary of his death, and that the same number of Masses should be offered from the remaining revenues, along with a stipend of one *libella* and 27 *centimi*, of which ten *centimi* should be given for the benefit of his wife. Joseph Landriscina, the testator's nephew, soon received Holy Orders, and, having become a priest, possessed the property and fulfilled the obligations. But, since laws were promulgated by the government which abolished fideicommissums, and especially pious legacies, it happened that this priest, as if summoned, came before the government to claim full and absolute possession of the bequeathed property. Taking advantage of this freedom, the priest publicly transferred the bequeathed property to his brother by a legal instrument, granting it to him under an annual canon of 115 *libellae*. Now, knowing the wrong he has done, he humbly requests: 1. That he be granted absolution concerning the past, and that the bequeathed land be granted for pious purposes, under an annual canon of 115 *libellae*. SUMMARY OF THE CASE.

[*Latin ed. p. 455*]

455 2° Ut, pro tranquillitate suae conscienciae, ei designetur, cui, post mortem suam, canon libellarum 115 relinquendus sit, idest paroeciae vel alio ente, salvo iure descendentium testatoris. 3° Ut numerus missarum reducatur, perpensa utilitate, quam testator nepoti procurare intellexit, nec non taxa dioecesana pro missa, rerumque pretio valde aucto. Archiepiscopus precibus oratoris favit, adiecitque: quatenus legatum pium, demortuo oratore, assignetur parocho pro tempore, hic aliquam utilitatem pro paroecia ex eodem legato habere poterit.

Disceptatio Synoptica: Animadversum fuit, praedium in quaestione, legatum ad piam causam fuisse, nempe in missarum celebrationem: dum nepos testatoris eiusque agnati, sicut et clerus Trinitapoleos, non inveniuntur vocati nisi ad partes gerendas administratoris bonorum et

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satisfactoris onerum. Cum autem haec bona in missarum satisfactionem et personis ecclesiasticis sint relicta, et ideo in bonorum ecclesiasticorum censum sint certo connumeranda, ea in emphyteusim tradere haud poterat possessor absque apostolico beneplacito. Hoc namque veram alienationem constitui, iuxta Extrav. De reb. eccl. non alien, et Clement. I De Verb. signif. confirmata a Tridentino sess. 22 cap. 11 De reform., et punitur excommunicatione. Nihilominus orator affirmat, se id bono fine fecisse, ut scilicet per emphyteusim legati bona a futuris periculis diu subtraheret, et fundum sativum, parum tribuentem, in vineam mutatus magis frugiferum redderet: neque in hoc iustitiam commutativam proprie laesisse, ut fratri familiaeque suae gratificaret. Et haec quoad primum precum punctum. Quoad alterum, ubi petit cuinam canonem relinquat post suam mortem,

[*Latin ed. p. 456*]

456. TEARS. It has been noted that the Archbishop sought to influence and persuade the parish priest; however, nothing was said regarding the clergy, to whom, according to the testator's intent, the legacy should belong in the absence of lineal descendants. Certainly, it would be safer under civil law to assign the canon to the parish priest; and the clergy, if any exist besides the parish priest, could have their rights safeguarded and protected if the satisfaction of the legacy were entrusted to them, together with the parish priest. Regarding the third point, where the matter concerns the reduction of burdens, how odious this thing is is evident. For he himself, who alienated, for his own benefit, goods left in support of the soul, now dares to request grace, so that he may retain the remaining income with a further reduction of burdens, and enjoy them. Nevertheless, even here, the presumed will of the testator is at play, namely that he wished to please his nephew and confer a benefit upon him. The advocate, indeed, affirms that his uncle, towards the end of his life, wished to change what he had agreed upon, so that a more favorable decision might be made; but he was prevented from carrying this out by death. With these things noted, the question arises as to what should be answered to the prayers. RESOLUTION. After the matter was brought to its knowledge, the Sacred Congregation gave a response on August 20, 1887: After a prior absolution from the censures imposed by the Ordinary, and after a salutary penance for the grace of the healing of the emphyteusis and the reduction of burdens, according to the customary manual of alms in the Diocese, the Orator was obligated to immediately assign the canon to the parish priest, always observing the law of the foundation, and so it was decreed with the Most Holy Synod.

[*Latin ed. p. 457*]

457. OPPIDO. SACRED SCRIPTURE READING. December 17, 1887. Session 5, Chapter 1, Concerning Reform. SUMMARY OF EVENTS. The diocesan synod of Oppido, held in the year 1762, as was fitting, established

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in its cathedral church the office of a canon theologian, which had been lacking until then, and attached it to the sixth dignity in the chapter, called the "ecclesiarchate," with the obligation of reading and explaining Holy Scripture, in this manner: "Regarding the provision to be made for this, let readings from Holy Scripture be given on each Sunday, after Vespers, under penalty of the loss of a proportionate amount from the revenues of the churches that contribute to this support. Indeed, each parish and rectory in the Diocese was taxed a certain, small sum to contribute to the ecclesiarch theologian. However, the Sundays of Lent and the months of July, August, September, and October are excepted, according to the custom of our cathedral." For many years, however, until the year 1880, the reading of Holy Scripture was omitted, first due to the negligence of the canon theologians, and then due to a longer vacancy of the theological position. Finally, in the year 1880, the Ordinary obtained from the Holy See, through the Sacred Congregation for Propaganda of the Faith, the faculty of providing for the vacant theological position; which, after announcing the competition, he immediately took steps to implement. Wishing to correct the negligence of previous times, he expressly warned in the public competition announcement that the provision for the position must "give readings from Holy Scripture on each Sunday of the year, as legally established." After the competition was completed, and four examiners judged the priest Aloysius Vorlumi to be the most suitable, the Bishop chose him; but in the document of appointment, he again emphasized the matter that was close to his heart, namely,

[*Latin ed. p. 458*]

488. OPPIDEN. Concerning the explanation of Scripture; therefore, he expressly prescribed to him: "that he should give at least forty public lectures each year on that book of Holy Scripture which we will assign to you for explanation." Vorluni accepted the condition, and thus the arrangement was made in May of 1880. However, in March of the following year, the Bishop appealed to the Sacred Congregation of the Council, complaining that Vorluni had not complied with the canonical law nor had he kept his promises. For, immediately from the institution in Naples, until September, he had been occupied with pursuing his doctorate; and upon returning to his homeland, he had given only two scriptural lectures until the end of the year; and furthermore, he was excused from lecturing and presumed to be occupied on the seventieth, sixtieth, and fiftieth days, as well as on more solemn Sundays, and on other processions or special feasts. Therefore, when the Bishop sought counsel regarding this matter, and as to how such a matter would be calculated if a penalty were to be imposed on the theologian, he received a response instructing him to inquire in writing from the canonical theologian, "by what title he refuses to fulfill the number of lectures designated in the terms of his collation." Three years later,

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on May 1, 1884, the same Prelate approached the Sacred Congregation of the Council, and reported that, immediately after being summoned and hearing the precept of the Sacred Congregation, the canonical theologian, Vorluni, had promised the Bishop that he would give forty lectures. However, in fact, he had read only fourteen passages of Holy Scripture in 1882, and fifteen in 1883. And when, at the beginning of that year, 1884, after useless warnings, he was given a second notification by the Sacred Congregation of the Council, and he did not deviate from his course, nor did he show any concern, these facts were presented. Upon receiving this information, the Bishop was justly instructed "to give the canonical theologian a term of fifteen days to state the reason for which he refuses to fulfill the obligation designated in the terms of his collation; and if, after this term has passed without result, the Bishop shall proceed against the contumacious person according to his prudent judgment." But even this was of no avail; therefore, the Bishop again...

[*Latin ed. p. 459*]

On the 459th day, he proclaimed to the Sacred Congregation, and furthermore, he expanded the matter, stating that while the canon theologian neglects to hold the lectures, the chapter members, on the other hand, do not care to attend even a few of the lectures that are held. Therefore, he is concerned about the penalties to be imposed and their application. The response to him was that he should first teach about the faithful execution of the decrees of the Sacred Congregation. Indeed, the Bishop had given the order; but the canon theologian, Vorluni, sent nothing but a brief letter in his defense. However, the Bishop reported that the canon theologian was unwilling to have the obligation carried out by another, nor to pay the fines, nor to give more than fifteen lectures in a year by himself.

Concerning the first doubt, which pertains to the four points mentioned at the end, the Council of Trent, in Session 5, Chapter 1, concerning reforms, mandates that the Bishops establish the office of a canon theologian, "lest the treasure of heavenly books, which the Holy Spirit has generously given to men, should lie neglected," and prohibits the neglect of the most useful readings of Scripture, but it does not specify the number of such readings. Likewise, neither Benedict XIII in the Constitution *Pastoralis Officii*, nor Gregory XVI in the Constitution *Inter Praecipuas*, in the year 1842, defined that same number. Therefore, the Doctors are divided on this matter. Some, insisting on the statute of the Council of Lateran V, under Leo X, and the ordinance of the Council of Rome, under Benedict XIII in the year 1725, which, however, as testified by Benedict XIV in *De Syn. Dioec.*, book 2, chapter 2, number 6, is only to be recommended to the provincials, maintain that those readings cannot be fewer than 40 in number. Thus, Ferraris, in *Canonicus*, article 9, number 15. And indeed, the Council of Lateran V, as it is read in Verone, in the election concerning the canon

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theologian, on March 30, 1867, §, established that the theologian should, at least twice, or once, per week...

[*Latin ed. p. 460*]

460 OPPIDO. When legitimate instruction ceases, it ought to be resumed. And the Roman Council expressly states in title 1, chapter 7: "Those who are to provide such theological instruction, both in this esteemed city of ours and elsewhere, are to hold at least forty public lectures annually in the church." Furthermore, the Holy Congregation of the Council has adopted this opinion in several resolutions, for example, in Amerina Theologica on March 15, 1710, in Nullius Sublacensis on April 11, 1807, in Balneoregionensis on May 9, 1840, in Albanensis on June 10, 1876, to which the Ordinary of Oppido also refers in his letters, in which, concerning question III: "Whether and what reasons excuse a canon, a theologian, from lecturing in such a case; the answer is: One must adhere to legitimate custom and the judgment of the Bishop, provided that the lectures are not fewer than forty annually." Others, with Cardinal Petrucci, interpret the meaning of the decree of Innocent VI, number 48, in the manner that they say that the number of lectures, the subject matter, the manner, the place, and the time are to be left to the prudent judgment of the Bishop, which, however, can be regulated by a reasonable custom of the church itself or even of neighboring ones. In this regard, several resolutions of the Holy Congregation are cited, such as in Urbinatensis on March 10, 1663, in Fossanensis on September 22, 1668, in Asculanensis on May 1, 1607, in Maceratensis on August 26, 1854, to which is added Casalenensis, Praebendae Theologica on June 26, 1847, in which, among other things, in question III, whether and how a theologian ought to obey the commands of the Bishop concerning the increase of such lectures in such a case, the Holy Congregation answered: "Custom must be observed." Furthermore, in the file of that case, the following considerations were made, which seem useful to mention: "But if the custom of the Roman Council (of the year 1725) is not followed, the number of lectures seems to be left to the judgment of the Bishop, although he must not abuse this, as Petrucci points out in L c. n. 48. Therefore, in Patavinensis on July 16, 1845, the Holy Congregation judged that the time and quantity of lectures to be held by one holding a theological position in the cathedral should be..."

[*Latin ed. p. 461*]

OPPIDEN. It must be determined by the Bishop, according to his judgment, which, however, may be regulated by the custom of the church itself and of other churches in Italiae. Furthermore, if a predetermined number of readings has been established in the foundation of the lectureship, the Sacred Congregation of the Council declared in Ripana on January 12, 1692, which is cited by Petra I, chapter n. 49, along with the aforementioned

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Casalensi, that this disposition must be followed. In general, having these things established beforehand, the canon theologian, for his part, observes what is pertinent to the case presented, namely that he has understood from the beginning that he is only undertaking the obligation that is prescribed by common law, by particular statutes, by synodal laws, or by customs regarding synodal laws. However, from these laws, it does not follow that the present incumbent is bound to forty readings, but rather to illustrate the Holy Scriptures on all Sundays of the year, except for those that are excluded. He willingly submits to this obligation. Indeed, according to the aforementioned synodal law of the year 1726, the theologian is obligated to read, throughout the year on Sundays, except for six Sundays of Lent and seventeen Sundays of the months of July, August, September, and October, approximately thirty readings per year; not forty, as the Bishop contends. Moreover, the Bishop does not seem to be able to increase the number of readings beyond the number already determined from the beginning. Ecclesiastical benefices must be conferred without diminution, which diminution can occur not only by the subtraction of fruits, but also by the imposition of a burden, whether real or personal; Cf. Reiff, book 3, title 12, n. 4 seq. and Fagnan, in cap. significatum, n. 2 seq. Regarding the duties and dignities that are related to this matter, it states: "Therefore, the Sacred Congregation of the Council has often declared that the Bishop cannot impose a new burden on benefices, but must only ensure that those duties that are incumbent upon them by virtue of grant or custom are faithfully fulfilled." Another reason by which the theologian attempts to justify his course of action is the insufficiency of the praebendae: for from its...

[*Latin ed. p. 462*]

462. OPPIDO. For revenues that barely reach 400 livres, taxes and the burdens of the Mass are to be reduced. However, it is certain in law that burdens should correspond to revenues, and that revenues should correspond to burdens, as decreed by the Sacred Congregation of the Council in its hundred resolutions concerning the reduction of burdens. But, on the other hand, the Bishop insists that the theologian should give forty lectures per year, according to the terms of the grant for the theological lectures, and that he should fulfill this promise openly, as stated in the specific case. To the intention, to which the theologian is invited, and according to which he does not wish to obligate himself to give so many lectures, the Bishop replied: Only God, the searcher of hearts, could have foreseen this intention of his; while external actions, elicited with awareness and solemnity, indicate full adherence to the imposed obligation. From these things, it is clear that the theologian cannot be excused; this is also confirmed by the fact that the canon, twice, at the beginning of the years 1882 and 1883, having been reminded of the obligation to fulfill the prescribed number of lectures,

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promised that he would do so. Indeed, every promise and obligation, freely and voluntarily accepted in matters that are honest, is held by natural law and must be fulfilled. Furthermore, the honesty of the Bishop's disposition, which the canon Vorluni accepted, is undeniably proven by the conciliar decrees, which have been cited from the beginning, as well as by several resolutions of the Sacred Congregation, and especially by that of Albano, July 10, 1879, in which it is ordered that at least 40 lectures be given per year. Furthermore, regarding the statute of the Oppido synod, which defines the number of lectures, the following can be appropriately observed. In the diocesan synod, the Bishop is the sole legislator and can establish statutes therein, even if all the clergy present in the synod dissent, provided that he seeks the advice of the chapter, and that it is not a case in which the consent of the chapter is required. Thus, Benedict XIV, *De syn. dioec.*, book 13, chapter 1. Indeed, the author of a law, and his successor, can abolish or change the law, Suarez, *De legibus*, book 9, chapter 26; therefore, even the Bishop who celebrates the Synod, or his successor, can abolish or modify the synodal law, Benedict XIV.

[*Latin ed. p. 463*]

OPPIDEN, 4, 6, 3, loc. cit., lib. 13, cap. 5, n. 2. Wherefore, the Bishop seems to have been able to change the synodal statute concerning the number of readings. Even more so, because a new burden was not properly being imposed. For, since the Council of Trent did not determine the number of readings, it seems to have left that same number to the prudent judgment of the Bishops. And this is also sufficiently demonstrated by the rights cited above from the Sacred Congregation of the Council. But if the matter has been entrusted to the prudent judgment of the Ordinaries, the arrangement once given by them cannot be immutable, but must certainly be regulated according to the course of time. And in doing so, it seems to be exercising its rightful authority, rather than imposing new and illegal burdens. But the complaints about the insufficiency of the theological stipend are not to be considered, says the Bishop: for 200 books must be added to the 400 books of the Demesne, and 800 books which are received from the canonical mass; and therefore, the income of the canonical theologian amounts to 1400 books: upon which only a burden of 50 books falls, either from taxes or from masses. Since the first doubt is connected with the second, namely the question of how the penalties are to be calculated that are to be paid by the canonical theologian in the case of a missed reading. Concerning the penalties to be paid by the canonical theologian in the case of negligence, the Benedictine Constitution *Pastoralis officii* for all of Italy and the adjacent islands, given, states the following in §: "Furthermore, we wish and command that one-third of the proceeds of said theological stipend be distributed and proportionally applied to each reading of Holy Scripture, which the stipend holder shall hold on the prescribed days and hours

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throughout the year, so that if the stipend holder holds all the readings, he shall receive the assigned distributions in full, without any diminution whatsoever; but if he is absent in any or several readings, he shall lose the distributions corresponding to the readings missed, which shall be ceded to the sacristan of the church and paid out." And the Sacred Congregation of the Council, in the aforementioned document.

[*Latin ed. p. 464*]

46. In Albanen, concerning question IV, "whether the penalty to be imposed on a canon theologian, if he has negligently omitted to read [the prescribed texts], in this case," it was deemed that the response should be: "Affirmative, according to the form of the aforementioned Constitution (namely, *Pastoralis Officii*), considering the complete theological instruction provided therein, which consists of twenty lessons." Furthermore, the theological instruction in the chapter of Oppido consists of 400 annual "dei borderau" [lessons], and another 200, which are contributed by the demesne [land] and all the parish priests of the diocese, to which are added 600 or 800 annual lessons, the Bishop stating in one place that there are 600, and in another, 800, which the canon theologian receives from the common fund. Indeed, according to the cited Constitution *Pastoralis Officii* and the resolution in Albanen, the penalties to be deducted should be from one-third of the total fruits of the entire theological instruction. However, in this case, according to the synodal law, they should be calculated only on the contributions of the parish priests; unless, as the Bishop notes elsewhere, the custom of the chapter has increased this penalty to 4,25 lessons. Whether this law is sufficiently coherent, and whether it should be observed in the future, was referred to the judgment of the Most Eminent Fathers. Regarding the question of whether the chapter and the clergy should attend the lessons given by the canon theologian, it was noted that Moncelli discusses this matter very appropriately in his *Formulario Legali*, volume 1, title 2, form 5, numbers 8-11, which may be freely quoted. "Whether other canons and priests of the clergy are obliged to attend a lesson given by a canon theologian," he says, "the Holy Congregation of Councils seems to have declared in Cesena on July 18, 1648, that they should be encouraged by the Bishop, but not compelled, except for the penitentiary, who is obliged to attend; although the same Holy Congregation, in Fondi in the year 1618, as reported by Crispin in *Visitationes Particulares*, part 2, § 23, number 10, seemed to have stated that they could be compelled." "This second declaration, which affirms that canons and other presbyters of the cathedral church can be compelled by the Bishop..."

[*Latin ed. p. 465*]

OPINION. 46th. The aforementioned impediment compels one to hear the reading of canonical theology, which Barbosa, in the aforementioned

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Council, stated in chapter 1, session 5, number 14, and in the section on canon law, chapter 27, number 28, and Paci Jordan, in his work on canon law, volume 2, book 7, title 3, number 48, testifies to having practiced in his church in Zadar, and the appeal interposed by his decree and ordination was rejected, to which I also readily adhere, moved by the following reasons:

> "Firstly, because another resolution favors this in Urbinate, on May 10, 1663, as reported by Pignatelli in his consultations, number 62, number 45, volume 3, and another decree of the Holy Congregation of Bishops, in Fundi, on March 16, 1593. Secondly, because clerics are bound to obey their superiors in matters of honesty, according to Si autem vobis, question 11, number 3. Thirdly, because all clerics are bound to avoid ignorance and to know the law, so that they may instruct others; for ignorance of the Scriptures is ignorance of Christ, and is neither worthy of excuse nor of pardon, according to Ignorantia et c., Sicut stellas, dist. 38. And since this deficiency in the assistance of the cathedral clergy cannot occur without scandal to the laity, it follows that they can be compelled, so that scandal may be avoided, as is proven by the text in chapter Cum ex iniuncto, in Super De nov. oper. nunc, where the gloss states: 'it is true to say that it must be considered that, although according to equity, as befits according to honesty, and as is beneficial according to utility, ad text. in cap. Magnae, De vot. et vot. redempt.' "

> "However, the other decrees of the same Holy Congregation, and especially those in Città della Pieve, on March 15, 1692, in which it was declared that canons and priests, but not confessors, cannot be compelled, but only encouraged to participate in discussions of cases of conscience, do not apply here, because we are not speaking of those matters; but of the reading and explanation of the sacred Scriptures in the cathedral church publicly, from the pulpit, before the clergy and the people, according to the prescribed form of the Council, in which it is fitting that canons and priests devoted to the service of the cathedral should participate and assist, not only so that they may be instructed, but so that scandal may be avoided and a good example may be given to the laity; for it is understood, according to the eyes of Ada, volume 20, page 237, number 30..."

[*Latin ed. p. 466*]

466. Regarding offenses, it seems that what is tolerated in the laity, and what is lacking in guilt in other members of the Church, is considered illicit in clerics (cap. 4, dist. 32). And so that the clarity of the Council may be maintained: "However, such coercion must be moderate, and I believe that the Bishop should use it as a crutch, only when and after gentler exhortation has proven ineffective. And I would praise it if he himself, not being detained by other concerns, were to assist, so that he might more easily and zealously dispose ecclesiastical persons to obedience by his example."

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And Fagnanus, in cap. "Quia nonnullis," n. 28, writes: "It is the duty of theologians to teach priests and others in the sacred page, and especially in those matters that pertain to the care of souls." This also seems to be implied by Trent, when it prescribes that a canonical theologian should be established "in metropolitan or cathedral churches, if the city is notable or populous, and also in collegiate churches located in some notable town, even if it belongs to no diocese, if there is a numerous clergy there." Indeed, it is expressly stated by Lucidi, vol. 1, cap. III, De clero saeculari, § 44, that a theological institute should be established to teach, not so much the people, but the clergy, in the disciplines of sacred theology, liturgy, and sacred Scripture. However, if an institute is established to teach the clergy, it is necessary that the Bishop be able to compel the clergy to attend the lectures; and if he cannot achieve this with mere exhortation, it is indeed fitting, and even necessary, that he not be prohibited from using stricter legal remedies. Furthermore, it should be noted that Lucidi, in the aforementioned passage, fully approves, based on numerous reasons and decrees of the Sacred Congregation, what Monacelli stated in the preceding text, namely, that Ordinaries can compel their clergy, under the threat of penalties, to attend meetings of sacred liturgy and moral theology. Moreover, it does not seem reasonable that conferences on sacred Scripture, which were established by Trent himself with such diligence, should not be subject to the same discipline. Furthermore, in the present case, there is also the reason that, according to a synodal statute and long-standing custom, canonical theologians...

[*Latin ed. p. 467*]

OPPIDO. It is decreed that those who fail to attend the lessons shall pay a fine, if they have neglected to be present. Finally, certain points concerning the matter are to be noted. It is expressly stated that the fines imposed upon the canon theologian for neglecting the lessons are to be paid to the benefit of the sacristy of the church. *Constit. Pastoralis officii*. And the doubt pertains only to the application of the fines levied upon canons and other priests who do not attend the lessons, which fines, originally established by the diocesan synod, as testified by the Bishop, were formerly set at a certain amount, but today, by custom, have been increased to 42 centesimos. Furthermore, the learned Doctors agree that the daily distributions lost due to the absence of canons should be ceded to the benefit of the other canons who are present at the divine services. Thus, Barbosa, *De canonicis*, chapter 22, numbers 41 and following. Thus, the Sacred Congregation of Councils, in *S. Severini*, July 16, 1695, in Rome, August 19, 1730, and in other documents. Indeed, the fines for non-attendance at the lessons appear to be equivalent to the lost daily distributions, and therefore, even among those who were present at the lesson, they should be divided, as the canons of Oppido desire. This is even more so because such a divi-

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sion would encourage the canons to attend the lessons more diligently and frequently. But, on the other hand, the Bishop urges the diocesan synod, and insists, by virtue of the synodal statutes, that these fines should be ceded to the benefit of the church; and no one should challenge his assertion regarding such diocesan statutes. Nor is it necessary to insist on the equivalence between the fines, of which we are speaking, and the choral puncturations, for there is a great difference between the two; for the daily distributions come from the common fund and are instituted to encourage each individual to greater diligence in the service of God: whereas, the fines are to be paid by each person from his own resources, and are imposed primarily to punish the negligence of those who are absent; and they can be imposed not only on canons, but also on other members of the clergy (if the case arises). It cannot be said that, by such a division, the canons of Oppido...

[*Latin ed. p. 468*]

468. TOWNS. [Measures should be taken] to encourage more diligent attendance; for these penalties are too small, so that if they were divided among many, each person would receive so insignificant a share that it would scarcely serve as an incentive. With these considerations in mind, the following questions were proposed: I. Whether a canon theologian is bound to read forty passages of Holy Scripture per year in this case. II. What penalty should be imposed on the same canon theologian if he negligently fails to read, in this case. III. Whether the chapter and the cathedral clergy are bound to attend the readings of Holy Scripture under penalty of paying the customary fines, in this case. IV. Whether the penalties, to be paid by those who do not attend, should be paid to the benefit of the sacristy of the cathedral church, or rather, should be divided among those who attend the readings, in this case. RESOLUTION. After discussion by the Sacred Congregation on December 17, 1887, it was decided to respond as follows: To I. Affirmative. To II. Affirmative, according to the norms of the Constitution *Pastoralis Officii* of Benedict XIII. To III. Affirmative. To IV. In the case under consideration, affirmative with respect to the first part, and negative with respect to the second part, according to the form of the Synod, unless the bishop judges otherwise. FROM WHICH WE GATHER: The canon theologian must fulfill his proper function, namely, to explain the sacred writings according to the mind of Trent, lest that heavenly treasure, freely given to men by the Holy Spirit, lie neglected (I). II. Nothing is prescribed by common law regarding the number of readings; however, the Roman Council of the year 1725 decreed that there should be forty such readings; which...

(I) *École*, Vol. IX, 510, Appendix I, concerning the origin and duties of the canon theologian. There we endeavored to show that the duty of the theologian is the explanation of Holy Scripture; to this explanation,

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neither the exploration of cases of conscience, nor the reading of Dogmatic or scholastic theology, can suffice. *Recueil*, Vol. XIII, 87.

[*Latin ed. p. 469*]

I. The sum of four hundred and sixty-nine *meres* cannot be diminished without a special dispensation; S. C. Concilii in una Balneor. W. SS. LL. May 9, 1840. III. The fine, to be paid by the negligent theologian, is provided for by the Constitution of Benedict XIII, *Pastoralis officii*, n. 4, by the words: "We decree that one-third of the revenues... be proportionately applied to the theological stipend for each lesson of the sacred Scriptures... so that if he completes all the lessons, he will receive the full assigned distribution; but if he fails in any or several lessons, he will lose the distributions corresponding to the lessons neglected." IV. It appears that one-third of the fruits should be taken from all the revenues of the canon theologian; for those which are added, unless otherwise noted in the grant, are considered to be an increase to the theological stipend, and not as a salary or honorarium, by reason of the established office. V. In the chapter, if the theologian does not complete the full forty scriptural lessons, it appears that the amount corresponding to the neglected lessons should be taken from the books of 1400, which the same canon receives from the three chapters constituting the theological stipend (1). VI. Bishops can compel the chapter and the clergy of cathedrals and collegiate churches to attend the scriptural lessons, even with the addition of fines. VII. Furthermore, in the chapter, it is the case that canon theologians have been subject to fines by law of the synod and long custom, and that many such fines have been paid to the benefit of the sacristy of the cathedral; which is confirmed by the response of the Holy Congregation of Councils to the fourth question. (1) Compare Vol. X, 227.

[*Latin ed. p. 470*]

470 FROM THE COMPENDIUM OF THE LIFE, VIRTUES, AND MIRACLES, AND ALSO OF THE ACTS IN THE CANONIZATION CAUSE OF THE BLESSED ALPHONSUS RODRÍGUEZ, CONFESSOR AND TEMPORAL COADIUTOR, FORMED FROM THE SOCIETY OF JESUS. Blessed Alphonsus Rodríguez, who was to be a great ornament of Hispaniae and of the Society of Jesus, was born in Segovia on July 25, 1530, of Diego and Maria Gomex, honest merchants and devoted to the Catholic Religion as an example. Even as a boy, he showed himself to be exceedingly pious, especially towards the Blessed Virgin, whom he so devoutly worshipped and loved that he received not only singular graces from her, but also conversations with her. It is said that our Alphonsus, carried away by the ardor of love, when he had spoken so candidly to the Virgin, "I love you, Lady; would that you loved me so much," received this response from her: "No, my son, I love you more." And the most blessed Queen of the Saints thus

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bestowed this favor upon her devoted client; for in a remarkable way, in order that he might attain the goal of virtue, she aided him, and defended him against the deceptions and injuries of the dragon of hell. Afterwards, he was sent to Complutum to learn letters, and shortly thereafter, he was recalled by his mother due to the death of his father, so that he might succeed him in business; at her urging, he married a most virtuous young woman, and yet he was still determined to serve God faithfully. But a little later, when he had lost his wife, and the business was proceeding with some danger, he began to consider what kind of life he should lead, so that he might, with God's help, attain the perfection of virtue, which he had loved from his youth. Therefore, abandoning business, so that he might not present any obstacle to the divine vocation, he devoted himself entirely to domestic affairs, with great charity towards his relatives, and he willingly adopted a life of penance and austerity. And after having made a general confession among the admitted at the house of Father Martínez, with great contrition of spirit and with abundant tears, the source of which was never exhausted, he began to attend the sacraments of Penance and the Eucharist every week, to which he added constant and fervent prayer, fasting, and the most severe and bloody flagellations. It is said that Christ Himself appeared to His most beloved servant one night, while he was weeping and seeking Him with great ardor, surrounded by a great throng of Saints, among whom was the blessed Francis of Assisi; and from among them, he asked for Francis. To whom Alphonsus said: "But how can I restrain my tears, knowing that my God has been so grievously offended by me so many times, when even lions, after a night of suffering, are sufficiently appeased?" This is a most excellent and fitting sentiment for a man so devoted to holiness, which Christ approved with a look of love. With this heavenly vi-

[*Latin ed. p. 471*]

FROM S. G. RITUUM 471: Thus was Alphonsus restored, thus elevated to the higher mysteries of spiritual life, so that henceforth nothing in him was observed that would detract from this earthly life. Everything in him was composed and moderated in the affections of the soul and desires; nothing was more serious in his conduct; nothing was more holy and more closely united with God in every office of piety; nothing was more attentive to the care of salvation and the study of eternal things. With a multitude of heavenly gifts, God adorned him. It is known that Alphonsus, on several occasions, was transported outside of himself and enjoyed heavenly visions, on several occasions he foretold the events of the future, and to him, God Himself, which he so greatly desired, clearly demonstrated the way to begin a new life. Although Alphonsus, who had known the Society of Jesus from his youth, followed it with the greatest love; nevertheless, he decided to join the Sodality only when, one night, a certain image appeared to him,

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which he understood as a divine warning. Indeed, while asleep, a most beautiful image of a dove appeared to him, in whose breast the name Jesus was engraved in the most brilliant silver letters. A dense flock of black birds, making a terrible noise and clamor, agitated the air, striving to attack and destroy it. But they resisted fiercely, and although weakened and struck down, they renewed the struggle again and again, until, by the power of the dove, their bodies were torn apart, and they were cast to the ground. Father John Baptist Martinez, to whom Alphonsus went for confession, clearly explained to him what such a vision portended: namely, his imminent entry into the Society of Jesus, and the great victories, which, under the name and protection of the Most Holy Name of Jesus, he would achieve over the demon. Therefore, Alphonsus, with no heavenly vocation hindering him, since three years earlier his wife had also died, and his son, born of her, had also passed away, decided to devote himself entirely to God in the Society of Jesus, to which he was assigned in Valencia, on the eve of the Kalends of February in the year 1571, at the age of forty. But when he had already reached a sufficient age, and seemed unable to learn letters quickly, he obtained a place among the coadjutor brothers. This greatly pleased Alphonsus, who was most humble, and he gave great thanks to God, that at last, after the sorrows and trials of the world, he could find a safe harbor. In this place, he gave such examples of all virtues, and especially of humility, obedience, and penance, that he presented a new spectacle to the astonished and amazed members of the sodality. As a result of this, shortly after completing his novitiate, he was sent to Majorca, where, with the unanimous consent of the Fathers, he pronounced his simple vows on April 5, 1573, in the College of the Society of Jesus, recently established, which had been named by the Most Holy Virgin of Mount Sion. There, on the same day, in the year 1585, he solemnly renewed his vows; there, he fulfilled, as much as he could, the office of doorkeeper throughout his life. Having come to this point, it is superfluous to say anything about the virtues which our Blessed one exercised in the Religious life in a remarkable way. For from those things which have been explained so far, it is clear that he gave the Jesuits a name, since his sanctity was already mature; therefore, in him, there was no-

[*Latin ed. p. 472*]

472 FROM St. C. lit. ITI M, these new notaries could be counted, but the virtues, which shone with profound roots, manifested themselves in marvelous ways. Humility, chastity, poverty, penance, devotion to prayer, contemplation of divine truths, the most tender love for the Blessed Virgin, constant and profound meditation on the Passion of Our Lord Jesus Christ, from which arose that fervent charity towards one's neighbor, that singular contempt of the world, and that implacable hatred of oneself, which the prudence of superiors often had to restrain, so predominated that per-

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haps he had few equals even among the Saints. This remarkable abundance of heavenly gifts, with which God adorned this great man, can also be compared to the humility that He bestowed upon him, and which He deigned to strengthen and refresh him in those long and arduous trials, in which he was repeatedly afflicted by the powers of darkness in a manner scarcely credible. The last of these, which occurred shortly before his death, although it may seem milder in appearance, for the devil afflicted Alphonsus' body, which he had previously weakened, was of such a nature that it could utterly overwhelm the blessed soul, depriving him of the most precious of virtues and leading him to despair of salvation. Indeed, the most holy old man perceived that he was in imminent danger of losing the friendship of God, from which there was no escape: that he had deserved this through his past sins; and that God and the Blessed Virgin would not abandon such a contemptible man, who had so abused so many and such great gifts. Therefore, filled with tears, the most miserable old man cried out to God and the Blessed Virgin, begging them to have mercy on him, and he tried to pour forth prayers. But in vain: for, through infernal deceit, he had forgotten the Lord's Prayer. Only his past sins occupied his mind, and the eternal departure from God, leading him to perdition. His only consolation was to ask his companions to recite the prayers of which he had forgotten, so that they might reconcile him with God and the Blessed Virgin. For five months, this cruel anxiety afflicted Alphonsus' soul, until finally Christ and His holy Mother appeared to the afflicted old man, and comforted him with the sweetness of divine charity, granting him the most profound peace. Alphonsus was not only once or twice granted this vision and conversation, but very often, so that it can truly be said that he was intoxicated by the abundance of the house of God, even before he reached it. He passed away on the eve of November, in the year 1617, at the age of eighty-seven, after, with a fixed gaze on the Crucifix, he loudly proclaimed the sweetest names of Jesus and Mary. Scarcely had the death of the saint been announced in Majorca, when a wondrous throng of citizens from all walks of life gathered to venerate his body. The clergy, religious orders, noble magistrates, and the people flocked to the church where he was to be seen, and all were eager to see him, and they pressed kisses upon him with pious hands, proclaiming that they were inflamed by the very sight of him with divine love. Soon, the fame of many and great miracles spread. Therefore, processions were held in Majorca and Segovia, which are called "ordinations" by the prelates, and by decree of the Supreme Pontiff Urban VIII,

[*Latin ed. p. 473*]

FROM THE SACRED CONGREGATION OF RITUALS, 473, March 22, 1627, approved; the same Pontiff signed the Cause Commission on December 20 of the same year. The decrees, however, were issued shortly there-

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after by Urban VIII, which necessitated postponing the cause, to which further work was given at the end of the year 1667. Magnani, however, introduced a delay, both through the necessary examination of writings and through other matters that had to be carried out according to the prescriptions of law, about which it is unnecessary to say anything here. Finally, an examination of the virtues of the Venerable Man was instituted: in two previous Congregations of Sacred Rites, one of which, called the Preparatory Congregation, was held on December 7, 1734; the other, the Preparatory Congregation, on September 13, 1757. With these preliminaries, in the general meetings of the Sacred Congregation held on April 11, 1770, before Pope Clement XIII, the following question was proposed by the Most Reverend Cardinal Portocarrero, Relator of the Cause: "Is it established that the Venerable Servant of God possessed the Theological and Cardinal virtues, and those attached to them, in a heroic degree?" His Holiness, after hearing the opinions of the Consultors and the votes of the Most Reverend Cardinals, expressed his opinion on this important matter, in order to proceed more prudently, meanwhile imploring the help of Divine Providence. Subsequently, considering that the time had come to announce his judgment, on the feast of Pentecost, he offered a bloodless sacrifice, and received before him the Most Reverend Cardinal Portocarrero, Relator of the same Cause, and Tamburini, Prefect of the Congregation of Sacred Rites, as well as Father Caietan, Promoter of the Fortitude of Faith, and I.M. de Lerme, Secretary of the same Congregation, and again imploring Divine help, he decreed: "It is established that the aforementioned Servant of God, Alphonsus Rodriguez, Temporary Coadjutor of the Society of Jesus, possessed the Theological virtues of Faith, Hope, and Charity towards God, and the Cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those attached to them, in a heroic degree, in every circumstance and to the effect of what is being considered." He ordered that such a decree be recorded and published in the Acts of the Congregation of Sacred Rites, on May 25, 1760. Subsequently, in three Congregations of Sacred Rites, as is customary, there was discussion about the miracles that were worked through his intercession. The first Congregation was held on July 4, 1767, before the Most Reverend Cardinal Marco Antonio Columna; the second on June 14, 1823, in the Apostolic Palace of Quirinal, with the Most Reverend Cardinal Giulio Maria de Somalia presiding; the third, finally, on July 17, in the Vatican buildings, with a large attendance of Fathers Cardinals and Consultors, before His Holiness Pope Leo XII, the Supreme Pontiff. His Holiness, after delaying the matter for some time in order to implore heavenly aid, on the feast of St. Ignatius, went to the magnificent temple dedicated to the Name of Jesus, where the remains of St. Peter rest, and there, after attending the sacred rites, he received the Most Reverend Cardinal de Somalia, Dean of the College, Prefect of the Congregation of Sacred

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Rites, and Relator of the Cause, as well as the Reverend Fathers Virgilio

[*Latin ed. p. 474*]

474 FROM the Sacred Congregation of Rites, the Promoter of the Faith, and the Secretary Assistant of the same Sacred Congregation, it was decreed that two miracles had occurred, namely, one of the third class, namely, the healing of Antonina Blanquera from a grievous hemorrhage of the uterus, with the most serious symptoms, accompanied by a complete restoration of her strength; and also, the other of the second class, namely, the instantaneous and admirable expulsion of a dead fetus, so transversely positioned within the womb of Margaret Compagn, that it could not naturally be expelled with even one arm extended. This decree was ordered to be recorded in the acts, and to be published, on the eve of August, in the year 1824. With these matters established, the Sacred Congregation judged that the Venerable Alphonsus could safely be honored with the beatific blessings. This judgment, after prayer to God, was approved by the same Pontiff, on the feast of Saint Michael the Archangel; and he ordered the aforementioned Cardinal of Somalia, Dean of the Sacred College, and Prefect of the Sacred Congregation, as well as the Relator of the Cause, and also the Reverend Fathers Virgil Pescetelli, Promoter of the Faith, and S. A. Sala, Secretary Assistant of the Sacred Congregation of Rites, to come to him, and he solemnly decreed: That it was permissible to proceed to the beatification of the Venerable Servant of God, Alphonsus Rodrigues. And this decree was ordered to be published, and to be recorded in the acts of the Sacred Congregation, and also that Apostolic Letters, in the form of a Brief, for the beatification, should be prepared in due time in the Vatican Basilica. Solemn celebrations of the beatification were splendidly held in the Vatican temple on June 12, in the year 1825. Shortly thereafter, when new miracles were reported to have been obtained through the intercession of the blessed man, consideration was begun to be given to canonization; and when a question of reopening the Cause for this purpose was proposed, the Supreme Pontiff Gregory XVI, on the eighteenth day of November in the year 1831, signed the commission for reopening with his own hand; and on the same day, he granted the authority to establish an Apostolic Process concerning a miracle that was said to have occurred in the Diocese of Majorca through the invocation of the same Blessed. And letters of instruction were given for this purpose. When this process was completed and duly submitted, it was finally approved by Apostolic authority on March 2, in the year 1839. The cause remained dormant until the year 1866. But on the first of February of this year, further letters of instruction were given, so that a process might be instituted concerning a newly asserted miracle, which was said to have occurred in Brussels, in the Diocese of Mechlin. And after all had been properly carried out, the validity of this process was proven on February 4, in the

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year 1871. Therefore, since a more convenient and expeditious path for the examination of miracles could be established, meetings were duly called to deliberate on the matter. The first miracle occurred to Lady Joachima Roca y Rayó, who, at the age of seventeen, enjoyed good health, but then began to be afflicted by various illnesses, the nature of which seemed suspicious to the doctors. And they were not mistaken: for in the year 1829,

[*Latin ed. p. 475*]

From the Sacred Rituals, lines 475, the symptoms of obstruction and inflammation were clearly manifested. A tumor developed, which, as the illness progressed, became increasingly hard and large. However, hope for recovery was not yet abandoned. But in July of the year 1830, when the disease had spread to the vital organs, and vomiting accompanied by a burning fever, as well as insomnia and delirium had appeared, the doctors considered that there was no hope of recovery. During this time, as Joachima was nearing death, having received the Sacraments of the Church, she saw a vision from the image she held, of Blessed Alphonsus, warning and urging her to drink from the reliquary, from which she would regain her health. She drank readily, and Joachima not only recovered immediately, but also appeared healthier than she had been before, to everyone. No less remarkable is the case of Sister Mary Alphonsa, a novice in the Monastery of St. Coleta in Antwerp. From her childhood, she had shown signs of poor health, and upon entering the monastery, although she was somewhat better for a few years, a disease that had been lurking in her internal organs gradually broke out, which the doctors diagnosed as cancer of the stomach, beginning in the year 1858. This diagnosis, which was based on the symptoms, was confirmed by the fact that her father and other close relatives had died from the same disease. Meanwhile, despite the most powerful medicines being used, the wasting of the body continued, her strength was not only weakened but also depleted and exhausted, and the constant vomiting foretold the imminent end. To avert this, with great piety, both Alphonsa and the Sisters implored the intercession of our Blessed one through novenas of prayers; and they were heard. For on December 8th of the year 1863, which was the last day of the aforementioned novena, the Sister, after receiving the Most Holy Body of Christ, felt so well that, rising from her bed, putting on her clothes, she walked quickly through the monastery, astonishing the Sisters, and loudly proclaimed the miracle that had occurred to her. This continues to this day, for it was recently reported to the Sacred Congregation that the same Sister is still in good health. These miracles were discussed: first, in a meeting of the Preparatory Congregation held on February VI, in the year 1887, in the house of Cardinal Laurenzi, the Relator of this cause; second, in the Preparatory Congregations held the same year on July IV in the Apostolic Palace at the Vatican; and third, in the General Congregation held in the aforementioned

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year on September VIII before the Most Holy Pope Leo XIII in the same Vatican papal buildings: where, when the Most Reverend Cardinal Isidore Verga, in place of and on behalf of the aforementioned absent Cardinal Relator from Rome, proposed the question: Whether, and concerning which miracles, the case consists, in order to achieve the purpose for which it is being considered? Each and every one present, both the Most Reverend Cardinals and the Consultor Fathers, in turn, expressed their vote. However, the Most Holy Pope then pronounced his decisive judgment.

[*Latin ed. p. 476*]

476. From the Sacred Congregation of Rites, it was reported, noting that those present in so grave a matter ought to seek the will of God through prayer and supplication. On the feast of All Saints, after the Divine Sacrifice had been celebrated, His Holiness summoned to him the Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and Carlo Laurenzi, Relator of the Cause, together with Father Augustine Capra, Promoter of the Sacred Faith, and Father Lawrence Salvati, Secretary of the same Congregation, and those assisting, and solemnly declared: "That two miracles have been established, which occurred through the invocation of the Blessed Alphonsus Rodrigues; namely, the first: the instantaneous and complete healing of Joachima Rocha y Rayo, who was suffering from gastritis and a widespread peritonitis, and the second: the sudden and perfect healing of Sister Mary Alphonsa Gallis, a professed nun in the monastery of Saint Coleta in Antwerp, from a hereditary and chronic cancer of the stomach." He ordered this decree to be published and recorded in the acts of the Congregation of Sacred Rites, on the first of November of the year 1887. Subsequently, as the time approached for honoring God's humble servant with the highest honors of the Saints, on the seventeenth day before the aforementioned month, that is, December 14th of the year 1887, the General Assemblies of the Society were convened, in which the Most Reverend Cardinal Laurenzi, Relator of the Cause, proposed the question: "Whether, with the approval of two miracles following the granted devotion, it is permissible to proceed safely to the solemn canonization of the Blessed Alphonsus Rodrigues." To this question, both the Most Reverend Cardinals and the Consultors unanimously gave an affirmative answer. Finally, Our Most Holy Father Pope Leo XIII, with the help of the Divine Spirit, and considering the opinions of the Most Reverend Cardinals and the Consultors, deemed it fitting to proceed. Therefore, after the Holy Sacrifice, in the noble hall of the Vatican Palace, he summoned the Most Reverend Cardinals Angelo Bianchi, Prefect of the Congregation of Sacred Rites, and Carlo Laurenzi, Relator of the Cause, together with Father Augustine Capra, Promoter of the Sacred Faith, and Father Lawrence Salvati, Secretary of the same Congregation, and those assisting, and solemnly declared: "That

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it is permissible to proceed to the solemn canonization of the Blessed Alphonsus Rodrigues, and that Apostolic Letters should be issued for that purpose whenever it is to be celebrated." The Society earnestly desires and implores that this, which has been so long desired, may finally be accomplished, for the good of the Church and the Christian republic, for the honor and example of its own Order.

[*Latin ed. p. 477*]

477 FROM DECREE 8 OF THE CONGREGATION FOR INDULGENCES, BY WHICH AN INDULGENCE OF THREE HUNDRED DAYS IS GRANTED TO THOSE WHO RECITE THE HYMN "Ave Maris Stella."

Most Blessed Father, Most Reverend Vincent Leone Sallua, Archbishop of Calcedon, humbly prostrates himself before the Holy Feet and implores Your Holiness to deign graciously to grant to all the faithful who, with a contrite heart and devoutly, recite the Hymn – "Ave Maris Stella," etc. – in honor of the Blessed Virgin Mary, as found in the Roman Breviary, an Indulgence of 300 days, to be gained once in each day. May it please You.

Vincentius Leo Sallua, Archbishop of Calcedon, humbly prostrated before the Feet of Your Holiness, prays that you may deign to grant to all the faithful, who, with a contrite heart and devoutly, recite the Hymn – "Ave Maris Stella," etc. – in honor of the Blessed Virgin Mary, as found in the Roman Breviary, an Indulgence of three hundred days, to be gained once in each day. May it please You, etc.

On the most holy day of January 27, 1888.

His Most Holy Lordship, Pope Leo XIII, graciously approved the request for this grant. This decree is valid forever, without any further expedition. Notwithstanding any contrary decrees.

Given in Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on this 17th day of January, 1880.

CAJETANUS CARD. ALOISI-MASELLA, Prefect.

ALEXANDER, Bishop of Oensis, Secretary.

DECREE, BY WHICH AN INDULGENCE OF FIFTY DAYS IS GRANTED TO THOSE WHO RECITE THE PSALM "De Profundis," etc.

Most Blessed Father, Most Reverend Anthony Grasselli, Archbishop of Colossi, humbly prostrates himself before the Holy Feet and implores Your Holiness to deign to grant some Indulgence to all the faithful, whenever they, with a contrite heart and devoutly, recite the Psalm – "De Profundis," etc.

[*Latin ed. p. 478*]

478 FROM St. Gregory regarding INDULGENCES: recite the Psalm "De profundis," with the verse "De profundis," and at the end, add the verse: "Requiem aeternam dona eis, Domine, et lux perpetua luceat eis." Con-

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cerning this grace: "From the Audience of His Holiness, dated February 2, 1888. His Holiness, Our Lord Pope Leo XIII, grants with paternal benevolence to all the Christian faithful of both sexes, who, with at least a contrite heart, devoutly recite the aforementioned Psalm with the attached verse – "Requiem aeternam dona eis, Domine, et lux perpetua luceat eis" – an Indulgence, applicable also to the deceased, of fifty days, to be gained three times a day. This [grant] is valid for the future, perpetually, without any time limit. Notwithstanding any contrary provisions." Given in Rome, from the Secretariat for Indulgences and Sacred Relics, on February 3, 1888. CAIETANUS CARD. ALOISI-MASELLA, Prefect. S. ALEXANDER, Bishop of Oensis, Secretary.

RESCRIPT, BY WHICH A PLENARY INDULGENCE IS GRANTED, TO BE GAINED ONCE WITHIN THE MONTH OF SEPTEMBER, TO THE FAITHFUL WHO, THROUGHOUT THE SAID MONTH, PIOUSLY COMMEMORATE THE SORROWS OF THE BLESSED VIRGIN.

Most Blessed Father,

The Prior General of the Servants of Mary, Pier Francesco M. Testa, humbly prostrates himself before Your Holy Feet and presents to Your Holiness that, by the benign concession of the Most Holy Pope Pius IX, Your Predecessor, an Indulgence of three hundred days was granted, to be gained by all the faithful on each day of the month of September, to those who, with at least a contrite heart and devoutly, practice the pious exercise of the month of September in honor of the Most Holy Virgin Mary, Sorrowful, using any book, provided it is approved, that treats of the Sorrows of the Most Holy Virgin Mary.

Now, with this intention, that the faithful may be more and more encouraged to contemplate the sorrows of the Most Holy Virgin Mary, and to draw benefit from this so beautiful and useful exercise, Petrus Franciscus M. Testa, Prior General of the Order of the Servants of Mary, humbly prostrates himself before Your Holiness and presents that, by the benign grant of the Most Holy Pope Pius IX, Your Predecessor, an Indulgence of three hundred days was granted, to be gained on each day of the month of September, by all the faithful who, with at least a contrite heart and devoutly, perform the pious exercise of the month of September in order to contemplate the sorrows of the Blessed Virgin Mary, using any book, provided it is approved, which treats of the sorrows of the same Blessed Virgin Mary. Now, with this purpose, that the faithful may be more and more encouraged to contemplate the sorrows of the Most Holy Virgin Mary, and to draw benefit from this so pious and useful exercise.

[*Latin ed. p. 479*]

From the Sacred Congregation for Indulgences, mindful of the spiritual benefits which this devotion brings to pious souls, We implore Your Holiness to deign to grant a Plenary Indulgence to those who, in the manner

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described, shall honor the Sorrowful Virgin during the month of September, to be obtained only once within the aforementioned month, on the day in which, truly contrite, confessed, and having received Holy Communion, they shall pray according to the intention of Your Holiness. May they receive those spiritual graces which this devotion is wont to bestow upon pious souls. Your Holiness is besought to deign to grant a Plenary Indulgence to those who, according to the aforementioned manner, have devotedly honored the Sorrowful Virgin throughout the entire month of September, to be obtained once during that month, on the day chosen by each, on which they have been truly contrite, confessed, and have received Holy Communion, and have prayed for a time according to Your Holiness's intention. This grace, etc. From an audience on the 27th of January, 1888. Our Most Holy Lord Leo XIII, Pope, has benignly granted to all Christians of both sexes, who on any day during the entire month of September have piously recited the Rosary of the Blessed Virgin, either publicly or privately, the requested Plenary Indulgence, which may also be applied to the souls of the departed, to be obtained on the day chosen by each, within the aforementioned month, on which they have been truly contrite, confessed, and have received Holy Communion, and have prayed for a time according to His Holiness's intention. This present decree is valid forever, without any brief being required. Notwithstanding any contrary provisions. Given in Rome, from the Secretariate of the Sacred Congregation for Indulgences and Sacred Relics, on the 27th of January, 1888. CAJETANUS Cuto. ALOISI MASELLA Pref. L. # S. ALEXANDER, Bishop of Oenus, Secretary. SODALITIES UNDER THE TITLE AND INVOCATION OF THE BLESSED VIRGIN MARY OF PERPETUAL HELP AND OF SAINT ALPHONSUS M. DE LIGORI, ERECTED IN EVERY PLACE, CANNOT ENJOY THE INDULGENCES AND PRIVILEGES ENJOYED BY THE ARCH-SODALITY OF THE SAME NAME ERECTED IN THE CITY, UNLESS THEY ARE AFFILIATED WITH THAT SAME ARCH-SODALITY. Most Blessed Father Nicolaus Mauron, Superior General and Major Rector of the Congregation of the Most Holy Redeemer, prostrate at the feet of Your Holiness, humbly presents the following: By Decree of May 23, 1871, the Most Reverend Cardinal Vicar of Rome, a pious union was canonically established in the church of the Congregation, dedicated to Saint Alphonsus M. de Ligorio, under the title and invocation of the Blessed Virgin Mary of Perpetual Help and Saint Alphonsus. This same pious union, through...

[*Latin ed. p. 480*]

480 From the Apostolic Letters concerning Indulgences, in the form of a Brief, dated March 31, 1876, which were promulgated by Our Predecessor, Pope Pius IX of blessed memory, for the honor of the Archisodalitas, together with all the usual and customary rights and privileges; and for its governance, a General Moderator was established, namely the Superior

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General and the Major Rector for the time being of the Congregation of the Most Holy Redeemer. It often happens that Sodalitates of the same name and title are established by the Local Ordinaries, by virtue of the faculty granted to them by a special Apostolic Indult for the erection of Sodalitates, with Indulgences, which are enjoyed by the respective Archiconfraternitates in the City, without any request for the aggregation of the Sodalitas to the General Moderator being presented. This, as experience demonstrates, does not in the least benefit the good of such a Sodalitas. Indeed, in these Sodalitates thus established, which are not connected to each other by any bond with the primary Sodalitas, or Archisodalitas, which has been established by the Apostolic See as a center for others, there gradually arises a lack of unity of direction and conformity of pious practices, which greatly contributes to the growth of devotion to the Blessed Virgin Mary, as well as to the greater good of the members of the Sodalitates themselves. Therefore, the Orator humbly implores Your Holiness to deign to decide benevolently that, in the future, Sodalitates under the title and invocation of the Blessed Virgin Mary of Perpetual Help and Saint Alphonsus M. de Liguori, canonically erected by the Local Ordinaries, may not in any way enjoy the Indulgences and privileges enjoyed by the Archisodalitas of the same name erected in the City, unless they have been aggregated to that Archisodalitas (with the prior consent of the Local Ordinaries and testimonial letters) by Letters Patent issued by the Superior General and Major Rector of the Congregation of the Most Holy Redeemer. For this grace, From Audience, this day, February 22, 1888. His Holiness Pope Leo XIII benignly granted the requested grace, with all legal provisions to be observed. This is valid forever, without any further notification. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, this day, February 22, 1888. S. CARD. VANNUTELLI, Prefect. L. & S. ALEXANDER, Bishop of Oenensis, Secretary.

[*Latin ed. p. 481*]

481 FROM THE SACRED CONGREGATION FOR THE LAURETAN COUNCIL DELEGATES REGARDING PARTICIPATION, December 17, 1887. Concerning this matter (1), a dispute arose between the Clergy of Castrifidardi and the Reverend Moscatelli, the parish priest of Crocette, which was resolved on January 29, 1887, in favor of the parish priest. However, when the Clergy obtained the benefit of a new hearing, the matter was reopened, with new objections raised both by the Clergy and by the parish priest. SUMMARY OF THE CASE. The patron, in order to eliminate all confusion, first recalls that the goods possessed by the Clergy of Castrifidardi are improperly called the "Pius Barbacesare" pious work, by the name "JURA CLERI," which pious man left to "the entire Clergy of Castrifidardi" in 1546; furthermore, he states that the goods possessed

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by the Clergy existed before the middle of the 16th century, and were already of great importance; therefore, they cannot be confused with the aforementioned small bequest of Barbacesare. Moreover, he adds that these goods cannot come under the names of the legates Bremen and Barbarossa, since it is entirely unknown whether they were originally acquired by the Clergy through a will, through legacies, or through a contract. Hence, through error, and by confusing the Union of the Clergy with the parish church and collegiate church, which did not exist in 1546, the Sacred Congregation was led to believe that, among the legacies left to the parish church and collegiate church from ancient times, the legacies of Bremen, Barbarossa, and Barbacesare held a prominent place. (1) See Vol. XIX, page 534, so that you may have a complete view of the case. Acts, Vol. XX, page 236.

[*Latin ed. p. 482*]

482. The distinction concerning the Union of the clergy already subsists by itself, and once admitted, the parish church and collegiate church ought spontaneously to limit the entire controversy to the legacy of Barhacesare. Hence, it has been negligently proposed whether the parish priest has a right to participate, and to what extent, and the Reverend Father has responded concerning all matters; provided that the only legacy that has been proven is that of Barhacesare, from whose disposition the standard is taken for the distribution of the remaining goods. Therefore, the burden lies with the opponent to prove that the rule for the entire participation is derived from a particular codicil of Barhacesare, because, according to Article 2, paragraphs 1, of the law on proof, the burden of proof lies with the one who asserts, not with the one who denies. And this right cannot be extended to item 60 of the improvements purchased by Ghirardelli, because these were extinguished by contract and by the title of a donation inter vivos to the Clergy, Presbyters, and Clerics of Ierre: Castri Fidardi, only for the faithful. With these premises, the advocate argues that the right to enjoy the disputed goods pertains only to the native presbyters of Castri Fidardi, excluding foreigners. And he seeks to prove this by bringing forward a distinction between the congregation of clergy which comes under the name of the Union of the Clergy of Castri Fidardi, and which seems to indicate a specific entity, composed of presbyters who have their origin in that place, and between the congregation simply of the clergy of Castri Fidardi, which, as a generic subject, includes the Chapter and the aforementioned presbyters of that land, who are not native, but reside there. From this distinction, he argues, foreigners, even if residents, cannot have a share with this Union of the clergy, nor the right to receive from its goods; firstly, because the Union of the Clergy of Fidardi, as a special and sui generis congregation, holds its meetings independently and administers its goods without the license of the Bishop; secondly, because at the time

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when this Union was instituted, foreigners could not transfer their domicile to the land of Castri Fidardi to assume the office of parish priest; for the law concerning the concurrence of parishes, promulgated by the Council of Trent, had not yet been promulgated.

[*Latin ed. p. 483*]

LAURETANA 483 This very point is demonstrated by the fact that the goods acquired by the Union in the Fìdardensi estate were placed there: from which it is deduced, he says, that they originated from bequests made by natives of the locality. Indeed, it is presumed that the intention of the testators was to favor local clergy over foreigners. This, he adds, must be maintained, even if the matter remained in doubt, as happens in the case of a bequest for the poor or for young girls, in which case it should be understood that it is intended for those who are from the testator's homeland, according to the law "Si quis" (Code) and the teaching of the Sacred Roman Rota, Decree 380, part ii, no. i. This is also confirmed by documents discovered after the year 1546. And, above all, he cites the disposition of Barbacesare, from which it can be argued that all members of the regular and secular clergy were intended by such a bequest, foreigners not excepted; nevertheless, he argues that through those very words, Barbacesare intended to indicate only pious men who were natives, or those who were affiliated with the clergy of the Union. And these could be none other than natives; because at that time, the Collegiate Church of St. Stephen in Castrifidardi did not yet exist, which could have called foreign priests. Moreover, if the testator had intended to signify the entire clergy, including non-natives, he would not have added the words "of the land of Castrifidardi," which seem to indicate a specific designation. To these, he adds numerous facts repeatedly observed over the centuries, which demonstrate that the codicil of Barbacesare was understood exclusively in favor of natives. First, he cites a document of October 16, 1634, in which Ghirardellius ceded to the clergy, for the sum of 60, certain improvements that he had purchased from a tenant of the clergy's estate, exclusively to the presbyters and clerics of the land of Castrifidardi, excluding presbyters and clerics from elsewhere. From this document, he adds, the nature and character of the pious work of the clergy of Fìdardensi are clearly shown; or, rather, that a law or custom must have existed beforehand that excluded foreigners from participating in the benefits. Otherwise, that contract of cession and acceptance would be utterly absurd.

[*Latin ed. p. 484*]

484. The case of Lauretana arises, namely, that the lord of the estate, in which improvements had been made, was the original clergy and a foreigner, and that the improvements were to be enjoyed exclusively by the original clergy. Furthermore, it is observed that Ghirardelli,

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having disregarded the condition regarding the non-aggregation of secular priests, intends to render the transfer void and to reclaim the aforementioned improvements. Regarding this matter, if the freedom of the Castrifidardi clergy is restricted or removed, either by allowing or prohibiting the aggregation of foreign priests, then the descendants of Ghirardelli might request the restitution of the price of the improvements, due to the unfulfilled condition. To demonstrate the custom in this matter, numerous petitions are cited, dating from the year 1653 to the present time, from which it is evident that foreign priests, even though they have resided in Castrifidardi for many years and have obtained a benefice there, nevertheless request to be aggregated to the native clergy, through grace, favor, and compassion. And their requests have not been rejected outright, nor have they been delayed, nor have they been granted only with some condition or restriction at the discretion of the clergy. And if, at any time, this right of the native clergy, whether concerning the enjoyment of property or the aggregation of secular priests, has been challenged or disputed, the clergy has always prevailed, and their right has ultimately been recognized and confirmed, either by the Bishop or by the General Vicar of Lauretana. Furthermore, at the command of Benedict XIII, an inventory of all the properties of his pious foundation was drawn up, which was compiled in the book commonly called the "Campione" in the year 1736, in which the clergy is defined as the aggregation of all those of the same region, with whose consent even secular priests can be aggregated, as is evidenced by the records of the chapters. And this inventory, he says, is of the greatest importance in demonstrating the nature of the pious work, especially because it is supported by all the presumptions of law and by the repeated actions and deeds of the clergy, even in later times. Finally, he urges that this memorable custom be confirmed by the testimonies of all witnesses, overriding any exceptions made by the older ones, who...

[*Latin ed. p. 485*]

The laws of LAURETANA, it is generally believed, pertain only to native clergy, and this has always been the understanding. Indeed, they state that this custom, whether ancient or dating back centuries, is a most important title, and that it predates all others, as Fargna writes on patronage law, p. 2, lines 2, no. 24; Cardinal de Luca, on patronage law, discourse 14, no. 10; De Senis, consuetudines, 234, no. 1; the Holy Rota, decisions 224, no. 9, p. 6; decision 38, no. 15, before Ansaldo. Therefore, he argues, the information given by the Bishop of Lauretana in the case of Lombardi to the Sacred Congregation of the Council, namely, that the benefits of that work are due to the entire clergy of Castrifidardi, and that in fact, they have been distributed to all those who have exercised ministry in Castrifidardi since time immemorial, should not be considered, as it is a gratuitous and erroneous

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statement, and should not be given any weight. And this doctrine, he says, is in conformity with the opinions of canonists and the jurisprudence of the Holy Tribunals; Sánchez, consuetudines morales, book 7, doubt 20; Garz, de Beneficiis, part 1, chapter 4, no. 43 and following; the Holy Rota, decision 244, no. 6, part 4, volume 2, recent decision 10, no. 5, p. 18. The assertion of the Bishop regarding the prejudice of a third party is not admitted, but rather, more proof is required. He believes that the case judged favorably for the parish priest Moscatelli should not be invoked, first, because the aforementioned Moscatelli does not represent Lombardi, nor is he his heir; and second, because even if the person of the clergy has changed, the situation is different. Since, after the promulgation of those infamous laws, with the intention of seizing the goods of the clergy, the institution for the clergy was declared to be a pious work for native clergy only, and this was recognized in two judgments by the Anconitan tribunal. From this, he asserts, it has come to pass that, when such an institution is subject to a charitable congregation, the clergy, having been diminished in number, and as it were, placed under guardianship, has lost its legal personality, which is now exercised by the local syndic, who, in turn, is subject to the municipal council, the provincial deputation, and the minister of the king. Indeed, in order for a res judicata to be validly invoked, it is necessary that the same cause be pleaded and the same conditions of persons be present, and if all these things do not concur, it is a different matter. Paul in the law...

[*Latin ed. p. 486*]

486 LAURETANA 14. concerning exceptions to a res judicata. Also, a res judicata does not benefit the actor when something new arises concerning the person of the party involved: argument I. 9 ff. concerning exceptions to a res judicata. I. If someone says "Is it so?" and "Is it my thing?", 47 ff. etc. But can it be objected that the decree of the Sacred Congregation, dated July 9, 1871, admits external priests to participation, but only with the consent and prior scrutiny of the local clergy? Nor can it be said that such a scrutiny was limited only to the qualities of the person to be admitted. Indeed, if that were the case, to uphold the res judicata, it would not be necessary to present a general question before the tribunal, but a special and limited one, concerning whether the person in question, namely Moscatelli, possessed the virtues of mind, gratitude, goodness, and doctrine, and whether he had wearied himself in the sacred ministry for a long time. But even these things being omitted, after the recent presentation of the Ghirardelli document, it can reasonably be argued that restitution in integrum is possible, indeed, that by means of an exception, the res judicata can be entirely overturned, according to I. 4 C. concerning res judicata, under the guise of new documents subsequently discovered; a grave example of how a res judicata can be restored.

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RIGHTS OF THE PAROCHIAL VICAR. On the other hand, the parochial vicar asserts that, in the first part of his argument, he possesses a right derived from the law, and that, based on two concordant judgments rendered on the same controversy, a res judicata arises. Therefore, it is established that in the question between the clergy of Castrifidardi and the parochial vicar, commonly called "delle Crocette," concerning the participation of the legates Bremen, Barbarossa, and Barbacesare from the year 1870 to 1873, four concordant judgments were rendered in favor of the parochial vicar "delle Crocette"; it follows spontaneously that a res judicata arose concerning these three legates in favor of the parochial vicar "delle Crocette." From this, it follows that the current parochial vicar "delle Crocette" has the right to raise an exception to the res judicata, and can prevent any new discussion concerning these three legates, and can prevent the original clergy of Castrifidardi from being dismissed from the threshold of this judgment without legal justification.

[*Latin ed. p. 487*]

LAURETANA 487 Indeed, a judgment that has passed into the matter under consideration, according to the censure of both laws, and without prejudice to the exception of a closed case, is held as true. I. if in the same way, 4 ff. concerning the presentation of children, L, separate 3 § cited, ff. concerning pledge and mortgage, I. ingenuum 23 ff. concerning the status of persons, argue by law, that if one does not want § in fact, 3 ff. concerning the edict of the aedile, but also rejects any proof to the contrary, S. Rota decis. tom. 6. p. 6. and decis. 266 n. Il p. 15 recent. Indeed, even under the pretext of a newly discovered instrument, a law cannot be retracted, as stated in the Code concerning judicial matters, law Imperatores ff. ibid., law under the pretext of the Code concerning transactions, law Argentarius ff. But when it is a question of selling, Chapter. Among the Monasteries concerning the judged matter. To which all doctors adhere, among whom, for the sake of brevity, Reiffenstuel is cited, who in book 2 of the Decretals, title 27 concerning judgments and the res judicata, § 4, number 106, states that a res judicata is of such authority that it can make something that is not, to be; and falsehood to be truth, and black to be white. Thus, a judgment that has passed into the matter under consideration cannot be retracted afterwards, and it will not be heard to contradict it, ibid. loc. n. i ö 9. Voet, who in book 44, title 2, concerning exceptions to the res judicata, tom. 6. n.l, further states that such a res judicata exception so impedes the entry into the litigation that it deprives the judge of the power to inquire whether the judgment was good or bad; but only whether it was judged, because the res judicata is held as true. Therefore, if a judge, despite the exception of the res judicata, again examines the case and renders a judgment contrary to the previous one, according to the teaching of the same author, the subsequent judgment would have no validity by law, and the authority of the previous

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judgment would stand, book 43, title 1, n. 47, concerning the res judicata. Therefore, says the advocate, since there is no doubt that the favor of the parish priest of Crocette militare constitutes a res judicata, it necessarily follows that the exception of the res judicata applies to it, and that it prevents a new discussion from being instituted concerning the legates of Bremen, Barbarossa, and Barbacesare.

[*Latin ed. p. 488*]

488 LAURETANA In the second argument, the defender maintains that the parish priest of delle Crocette is entitled to participate, just as the representatives of Bremen, Barbarossa, and Barbacesare are entitled, and therefore, the parish priest should also be admitted to participate. To demonstrate this, he uses the following dilemma: the representative of Ghirardelli is either to be considered as something unique, alongside the aforementioned three representatives, or as something distinct and separate from them. If the former is the case, and this representative is an accessory related to the aforementioned three representatives, then it follows that the parish priest is entitled to it, because the reasoning is the same, and the same judgment applies, as stated in C. translato S de Constitut, or because it follows the nature of an accessory to the principal rule, as stated in Reg. 42, de Reg. Iuris in 6°. If, on the other hand, the parish priest is also to be admitted to participate, just as the parish priest of Lombardy was admitted to participate in the aforementioned deliberations; then, because the very documents, the very reasons that were then used against the parish priest of Lombardy, are now repeated against the parish priest of Moscatelli, in order to prevent him from participating in the deliberations of the representative of Ghirardelli. Therefore, just as in past judgments, the Sacred Congregation [Sacra Congregatio] disregarded such documents and reasons, so too, for reasons of equality, it must be concluded that the same documents and reasons must be disregarded in the present judgment, and that the parish priest of Moscatelli is entitled to participate in the deliberations of the representative of Ghirardelli. Furthermore, the advocate argues, because this right is based on long-standing practice and the common saying that repeated actions, especially in matters of money, preclude any grace and establish a necessity. Finally, in the third section, he takes steps to overcome the difficulties raised by the opposing side, and first of all, he dismisses as futile the objection based on the difference in the person of the plaintiff, arguing that the priest of Lombardy, not qua talis [in that capacity], but inasmuch as he was the parish priest of delle Crocette, was entitled to participate in the deliberations of the representatives of Bremen, Barbarossa, and Barbacesare.

[*Latin ed. p. 489*]

LAURETANA 489 was admitted. From this, he argues that all and each

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parish priests, as successors, ought to be called to participate in such matters. And this, he maintains, was the intention of the Sacred Congregation, without any shadow of error, as can be seen from the resolution of July 19, 1871, in which it was stipulated that the clergy should in the future exercise a reasonable scrutiny regarding the qualities and merits of the candidate. Nor does it require alteration of the person involved in the case, and therefore the exception of *res judicata* can be invoked even in favor of the current parish priest, Moscatelli. In fact, it is the case that, even after the sentences of the Ancona tribunal, the original clergy still holds administration of the goods; it determines the manner in which this administration is to be conducted; it elects officials each year; it determines expenses and donations at its discretion; it appoints procurators for lawsuits, and it decides whatever it deems appropriate or necessary. From all of this, he argues, as much as it deviates from the truth, that what is asserted to the contrary is completely false, or that the very substance is lacking. Therefore, since it is the case that neither the person of the plaintiff nor that of the defendant has changed, and since all the goods, of which the legacy of Barbacesare consists, still exist, the advocate concludes that the exception of *res judicata* can be invoked by the parish priest Moscatelli in this judgment. However, if the exception of *res judicata* were admitted in favor of the parish priest, the original clergy, after the matter was judged, fled to the Codicillo Ghirardelli, in order to at least demonstrate, through the exception, that the restitution in integrum, which is due to them, is not affected by the *res judicata*. For he asserts that it is an undeniable principle of law that sentences which have the force of *res judicata* cannot be retracted, even on the pretext of newly discovered facts. Especially since such a codicil was already known, at least in substance, if not in the literal sense. In judgments, complete restitution is usually granted only when it is clearly established that there has been a manifest injustice in the *res judicata* due to false documents attached to the judgment, which are decisive in the case. All of this, of course, is completely false.

[*Latin ed. p. 490*]

490 LAURETANA. He maintains that it is foolish, indeed ridiculous, and almost insane, to claim that the aforementioned three legates were subject to the law contained in this codex of Ghirardelli, which was written eighty-eight years after the legate Barbacesare, and which is so insignificant; because it would be the same as wanting the principal to follow the nature of an accessory. Furthermore, it can be inferred from the aforementioned legate Ghirardelli that such legates are governed by the same laws by which the legate Ghirardelli is governed; therefore, that the institutions of Castrifidardi were established only for native priests. The patron of the parish, on the other hand, vehemently argues the contrary, and believes that this can be proven from the concern with which Ghirardelli repeatedly and

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expressly warned in his codex that foreign priests should be excluded from participating in his legate. This concern of Ghirardelli in excluding foreign priests would not be understood, if, in reality, the legate was established by him only for native priests of Castrifidardi, and was governed by the same laws by which other legates are governed. Indeed, the speaker goes even further and argues with all his might that foreign priests were admitted to the legates of Bremen, Barbarossa, and Barbacesare, once they had obtained a residential benefice, without any obligation to present a suppliant petition to the native clergy for admission; and he adds that this obligation was imposed upon them at their own discretion after the codex of Ghirardelli, in order to subject the foreigners to vexations. And this presumption, he claims, is corroborated by the fact that in a large summary of documents, among so many suppliant petitions presented by the opponents, not one is found that is prior to the codex of Ghirardelli. Finally, the speaker points out that the opponents are making a futile appeal to the judgments rendered by the Ancona tribunal concerning the demesne, in order to show that only native priests were called to participate in the legate of Barbacesare. Since, in those judgments, the question was not whether only native priests, or also foreign priests, had the right to the legate of Barbacesare; but whether such a legate...

[*Latin ed. p. 491*]

LAURETANA 491 claimed that the matter concerned the cult, or rather, the support of the clergy; it considered the issue to be one of beneficence. In this disagreement of opinions, the orator stated that the civil tribunals had rendered two concurring judgments, deciding that the matter concerned a bequest of beneficence, and therefore obligated the estate to restore the property. After considering these and other points, the purpose was to clarify the following question: Should we adhere to or depart from the judgments in this case? The Sacred Congregation of the Council, after mature deliberation, decided on December 17, 1887: Regarding the bequest of Ghir, the previous judgments stand. Regarding the rest, the res judicata applies, affecting all legitimately enrolled members of the Castrifidardi clergy, imposing perpetual silence on them; and the parish priest of Moscatelli shall be admitted to participate from the day he acquired possession. FROM WHICH WE GATHER: I. A res judicata arises from two concurring judgments rendered on the same controversy. II. The judgment that becomes a res judicata possesses such authority that it can make something that is not, to be; and falsehood to be truth, and white to be black. III. Therefore, it must observe the exception of *litis finitae* and be considered as truth; but also, it must reject any evidence to the contrary. IV. Indeed, it cannot be overturned even under the pretext of a newly discovered instrument, lest inexplicable difficulties arise from discordant or even mutually contradictory judgments. V. The exception of res judicata so impedes the entry

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of the case into litigation that the judge has no power to inquire whether the judgment was just or unjust. VI. The judge who, after having heard the opposition based on the exception of res judicata, again examines the case and renders a judgment contrary to the previous one, acts in vain; the subsequent judgment is VOID.

[*Latin ed. p. 492*]

492. The LAURETANA decree possesses no validity in itself, nor does it hold any authority superior to a prior judgment. VII. The connected cases must have the same reasoning and the same judgment, or the accessory must follow the nature of the principal. OSTUNI. REGARDING MARRIAGES. On the 10th of September, 1887. Session 24, chapter 3, concerning reforms. SUMMARY OF THE CASE. When John Ricci of Ostuni requested from his episcopal curia a declaration of freedom from all impediments in order to contract marriage with a certain Cosima Colucci, another woman, Carolina Costantini, presented an impediment, claiming that it should not be overlooked, asserting that John had previously contracted betrothal with her, and that, having been deceived with this hope, she had maintained a long relationship with him and had conceived a child. The parties being summoned to appear, on the 13th of June, 1882, before the Vicar General, all were present; at which time, John Ricci, interrupting Carolina Costantini's claim, stated: "I must confess that I had promised marriage to Cosima Colucci." And he continued: "However, since Carolina Costantini was deflowered by me before, and obtained a promise of marriage before Cosima Colucci, the obligation would lie with me to enter into marriage with her. But I remain uncertain, because the brothers of Cosima Colucci threaten me with grave consequences." After these statements, the Vicar General postponed the judgment, fearing that a conclusion to the case would bring about sad consequences, and hoping that the parties would reconcile in the meantime. Furthermore, the proceedings were not resumed, as the ordinary officials of the court refused, for various personal reasons, to once again take up the matter. In the meantime, the man entered into a civil marriage with Cosima Colucci, despite the protest of Carolina Costantini, whose...

[*Latin ed. p. 493*]

OSTUNEN. 493. Una causa, audita a iudice civili primae et secundae instantiae, est reiecta. In hoc statu rerum, curia episcopalis rem dirimendam transmisit ad S. C. C., quae monuit partes, et in specie Carolinam Constantini, ut iura sua deducerent; sed nihil intra tempus utile retulerunt. Disceptatio Synoptica.

Praeterea, secunda sponsalia, inita a Ioanne Ricci cum Cosima Colucci, sunt irrita prorsus; quia invalide contrahunt sponsalia, obstricti aliis sponsalibus. Quandoquidem quae sunt inhonesta, -quae scilicet bonos mores,

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leges, aut inita pacta laedunt « nec facere nos posse credendum est », ut habet lex 15 ff. De condit, instit.; ideoque eorum promissio nulla est ex leg. 26, 35, 103 ff. De pact. Imo, in puncto sponsalium, promissio facta in praeiudicium prioris invalida ipso iure habetur, et est, quamvis secundis huiusmodi sponsalibus accesserit iuramentum vel copula, aut utrumque; Benedictus XIV, Inst. 46, n. 9.

Quapropter, nullum superesse potest dubium, quominus Ioannes Ricci sit obligatus ad priorem mulierem. Quin imo, cum per plures annos commercium cum ea "habuerit, eamque, promisso matrimonio, seduxerit, veluti ipsa vult, iam districtus cogitur ad eam ducendam. Regula enim iuris canonici est, quam dat cap. 1 De adult., ut seductor mulierem aut ducat, aut dotet, secundum ipsius mulieris arbitrium ac beneplacitum. Quum autem in themate mulier matrimonium poscat, ad hoc vir tenebitur, ad hoc erit adigendus, iuxta cap. 2. Praeterea, et cap. Ex litteris 10 De sponsal. Quin opponatur coactiones in hac materia non esse adhibendas. Quandoquidem hoc verum absolute esse non potest: nam si coactio ad observandam fidem numquam adhiberi deberet, huiusmodi causae et impedimenta irrisoria ferme fierent, et canones, qui iubent resilientem a data fide, com-

[*Latin ed. p. 494*]

494. OSTÜNEN. Quid est, ut per competentiam iuris remedia obtineantur, et dicatur quod aliquis recessit ab aula? Hoc vero non est. Ideo igitur, coactio tunc solummodo adhibenda est, cum ex ea exitus infelices praevideantur; sicut Doctores communiter tradunt, et inter alios Ferraris in *Sponsalia*, n. 61, cum interpretantur celebre caput *Requisita* 17 *De spons.*. Atqui, in casu tali, exitus infelices huiusmodi ex coactione timeri non debent; nam Ioannes per se bene affectus erga Carolinam apparet. Nec est adduci quod secundam mulierem eiusque fratres viro gravia minatos essent, si ipse a data fide recederet; insuper, secundam mulierem in suo honore laesam, et tandem cum ea civile matrimonii foedus Ioannem pepigisse. Respondi posset, quod minas homines intertimere plus quam exsequi; et commercium carnales viri cum muliere, et damnum exinde huic illatum, reparari solere per nuptias, quoties nuptiae possibiles sint; quod si matrimonium cum laesa muliere conciliari sine iniustitia non potest, infelici huic, aut reae mulieri, aliud remedium non superest, quam tristem suam conditionem defigere, et compensationem aliquam pro damno illato postulare. In nostro casu, nuptiae cum Oosima Colucci conciliari non poterant, nisi ius laedendo alteri mulieri quaesitum esset. Superest itaque civilis matrimonii vinculum. Verum si huius existentia sufficeret ad valida et anteriora sponsalia cum alia persona inita dirimenda aut dispensanda, dici forte posset latam sterni viam, qua quis posset a data sponsalitia fide facillime recedere, sua fraude se patrocinans, frustraneam reddendo canonicam disciplinam, iubentem inita sponsalia sancte servari.

QUA FAVENT SECUNDIS SPONSALIBUS. At, ex altera parte, quamvis

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exprobratione ac poena dignus sit homo, qui, novae passionis aestu iactatus, datam semel sponsalitiam fidem non observat; et districtiori etiam iudicio arcessendus sit vir, qui super haec et aliud adiicit, puellam scilicet seducit, et exhibita matrimonii spe, virginitatis flore exuit.

[*Latin ed. p. 495*]

OSTUNEN. 49°. Nevertheless, it must be observed that John, although he wished it, could not return to his former and legitimate bride without great difficulty. Indeed, not only were grave dangers of vengeance threatened to him by the Colucci brothers; but moreover, since he was already civilly married to Cosima Colucci, if John entered into ecclesiastical marriage with Carolina Costantini, a civil and criminal action would be to be feared against him. And although it might be possible for him to avoid this penalty through diligent efforts, and to safely unite himself with his legitimate bride, considerable evils would still remain for this marriage; for, besides other inconveniences of lesser importance, the children born of this marriage would be considered illegitimate according to civil law. Furthermore, it is a certain doctrine held by Sánchez, book 1, chapter 62, and with him by St. Alphonsus, book 6, chapter 876, and others from chapter 17, "De sponsis," and 25, § "De iuribus," that, although to be taken with a grain of salt, as noted by D. Annibale Summa theologica, volume 3, chapter 378, number 6, betrothals necessarily contain this tacit condition, "provided that circumstances remain the same." And therefore, betrothals can be dissolved if such a circumstance arises, in which case one of the betrothed would not have entered into the betrothal, so that marriages less freely entered into may not have difficult consequences. This is taught by Reiffenstuel, ad tit. De spons. et matr., number 255; Sánchez, book 1, chapter 63, number 2; Pont., book 12, chapter 18, number 4; St. Alphonsus, book 6, chapter 865; Navarra, I, 18, number 7; Sporer, number 279 and following; Croix, book 6, chapter 3, number 168; Layman, part 1, number 2, number 18, who also calls this a commonly held opinion. Such a circumstance is especially present when a serious inconvenience arises for one of the betrothed through the execution of a given promise, as, for example, the Doctors illustrate, if one can no longer enter into marriage without dishonor to the family, St. Alphonsus, book 6, chapter 851, question 3, from law 42 and following, "De rit. nupt."; if the parents take this very seriously, even if they had previously consented, Sporer, number 280; if hatred, animosity, quarrels, or the like are feared, St. Alphonsus, number 887, cited above.

[*Latin ed. p. 496*]

496 OSTUNEN. Item, si una pars esset ad patiendum aliquid 'grave in rebus domesticis', sive si hoc esset damnum certum, ut, exempli gratia, exheredatio, sicut dicitur in Pontificio, lib. 12, cap. 47, n. 18, sive si implicaret amissionem lucri, ut, puta, si vir invenisset puellam longe divitiorem,

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sicut dicit Perez de sponsis, d. 9, sect. 44, n. 10, cum multis aliis, quos sanctus Alphonsus commemorat in loco citato, n. 876, et quorum sententiam D'Annibale appellat haud improbabilem, in loco citato, not. 10; nam si ille hoc praevideret tempore sponsalium, non contraxisset. Quare non est mirum si Sacra Rota, juxta quod citatur in Bellunen, Sponsalium praecedentis Congregationis, §, non semel tradidit, quamcumque causam, quamvis minimam, sufficere ad effectum recedendi a sponsalibus (1). Atque in casu nostro, mala certa certissime obveniebant, et mala graviora imminerent, si sponsalitia fides observaretur. Ergo, ab eius observatione excusari videretur Ioannes. Certo, obiectio maxima contra hanc conclusionem est, scilicet, enunciata theoria, quod quis resilire potest ab sponsalibus, si casus supervenerit in quo sponsalia non fuisset contraxurus, tunc quidem haec valere, quando casus seu eventus huiusmodi, absque dolo, culpa et fraude, interesse habentis contigerit. At in casu nostro, Ioannes ipse est qui fidem non servavit, falsa promissione alteri puellae se iunxit, rem cum ea habuit, et super haec omnia, adiecit ut civile foedus pangeret cum ea. Verum, quamvis haec faciens graviter et multipliciter peccaverit, nihilominus in eius arbitrio non est rerum statum immutare. Ideoque in conditione invenitur, qui causam proximam et directam ponunt a legis observantia impedientem; quod faciendo peccant, sed non ideo compelli possunt ad legis rigorem observandum. Vel verius, in conditione invenitur promissorum rei, qui tenentur ad id quod interest, si eorum culpa, aut dolo, res dari posse desiit. Siquidem ad impossibile nemo obligari potest. (1) Relata fuit Loc, volumen, pag. 370.

[*Latin ed. p. 497*]

OSTUNEN. 497 Therefore, even when the matter promised, namely, the dowry, has ceased to be given, John, whose fault it was that this happened, may, indeed not be obligated to the impossible, but only to that which is just, namely, to grant a fair compensation to the other party. Having considered these points, the purpose was to clarify the doubt as to whether there is a place for removing the impediment "NIHIL TRANSEAT" in this case. RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter on September 10, 1887, decided to respond: "Affirmatively, with a prior dispensation, if the word has been spoken with the Most Reverend, and with the warning given to the man, that he, according to his ability, shall determine a fair compensation, to be determined by the Archbishop, to be given to Carolina Constantini, and to her offspring." FROM WHICH, THE FOLLOWING MAY BE GATHERED. I. From the beginning of the marriage, one of the contracting parties cannot withdraw, against the will of the other. II. When the promissor has placed himself in a condition in which he is no longer able to change the state of affairs at his own discretion, then, with a prior dispensation from the previous marriage, it was incumbent upon him to provide a fair compensation to the

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former wife, and to her offspring. ARGENTINA REGARDING THE JUDGMENT AND EXECUTION December 11, 1886, September 10, 1887, and February 11, 1888. SUMMARY OF THE CASE. The parish church and the rectory of Presicce in the Diocese of Ugentina, in recent times, numbered nine members, besides the parish archpriest, who divided the revenues of the Church among themselves, both from immovable property and from uncertain sources. The immovable property was placed in a common fund and was administered by one administrator; more recently, from the collection, Volume IX, page CXXXVIII.

[*Latin ed. p. 498*]

498. The lands of Ugentina, divided into eleven portions, were assigned in such a way that one portion was given to each participant, and two portions were assigned to the archpriest. Thus, each person was to administer their own portion, and the portion assigned to the archpriest, as if he were a parish priest, was to be free from all burdens, except for those of a nature appropriate to the office. Furthermore, it was stipulated that, maintaining the same proportion of two portions for the priest and one for the others, all things were to be distributed fairly. The burdens of each were in turn: the celebration of 127 Masses, including 8 solemn Masses, and attendance in the choir on feast days; but the archpriest, in addition to these, was bound by the special duties of his office. While matters stood in this state, the infamous law of suppression was enacted by the Italian government, and applied also to the churches of the Kingdom of Naples. In accordance with this law, an annual pension of 132 livres was established for each participant who previously held a portion of 255 livres; while the parish priest, who received a double portion of approximately 425 livres, was assigned assets that would yield an annual income of 1383 livres. After these measures were taken, the participants claimed that their pension had been reduced too much, because they had previously agreed with the parish priest that more properties would be assigned to the parish, which had previously belonged to them; but in such a way that whatever remained of the portion due to the priest from the old allocation, the priest was to pay to the participants. On the other hand, the priest maintained that he had only been assigned what was just and due, and that the reduction in the pensions of the participants did not stem from a greater allocation of funds, but solely from the reduced income reported by them to the government, when it came to the imposition of the tax of *manus mortuae*. The participants maintained that nothing was owed to them. Hearing this, the participants of Ugentina appealed to the Curia of Ugentina, which, considering the archpriest's reluctance, referred the matter to the Sacred

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Congregation of the Council.

[*Latin ed. p. 499*]

UGENTINA 499. It pleased the Sacred Congregation to also hear the Archbishop of Hydrus, to whom the task was subsequently entrusted of settling the matter fairly and justly, or, if a settlement could not be obtained, of resolving the dispute, after hearing both parties, without, however, the clamor of judgment. The Archbishop of Hydrus, acting in accordance with the custom of the Sacred Congregation, rendered his judgment on February 6, 1881, on the basis that the parish priest, as the possessor, had unlawfully appropriated six ancient portions of land, instead of the two that previously belonged to him. Therefore, he condemned the aforementioned parish priest to share the then-current and future revenues with the participants, and to fulfill the relative obligations pertaining to the Masses in proportion to the value of the land. However, the parties agreed to submit the matter of the settlement to an arbitrator appointed by the Archbishop of Ugentina. For this task, the foreign vicar of the place, Salve, was chosen. After several unsuccessful attempts, he finally succeeded on April 29, 1881, in inducing the parties to sign an agreement, by which, among other things, it was stipulated that the parish priest should pay 800 *libellae* to each of the four surviving participants for the past. But because the parties refused to have this agreement enforced, the Archbishop, in order to urge them to reach the desired agreement, threatened them on June 1, 1881, with the penalty of suspension, which would be incurred by the very act, if they still refused to accept it after ten days. Frightened by the threats, the participants ratified the agreement; but the parish priest did not, and therefore incurred the penalty of suspension. However, towards the end of the year 1881, the parish priest also complied with the Archbishop's orders. Nevertheless, since the dispute with the demesne regarding the proper amount of the parish tithe still remained, he requested and obtained that the sum of 800 *libellae* to be given to each participant be deposited with a trustworthy man, so that, if the case should fail, the expenses of the lawsuit and the sum due to the demesne would be paid from it; and the parish property was to be administered by two persons chosen from among the faithful. Thus, the year passed peacefully, after which the parish priest recovered both the sum deposited with the sequestrator and the proper tithes, although...

[*Latin ed. p. 500*]

500. The outcome of the civil lawsuit in Argentina is still unknown, and it has not yet been resolved. Therefore, new appeals have been made to the Ugentina Curia and to the Sacred Congregation of the Council, which has assigned the controversy to the Most Reverend Archbishop of Edessa, so that he may definitively resolve it without the clamor of a trial. Having

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accepted this mandate, the Archbishop of Edessa summoned the parties, but since the parish priest did not appear within the assigned time, the Archbishop, on June 12, 1884, issued a final sentence in absentia, without the clamor of a trial and irrevocably, confirming the agreement of April 29, 1881, and the other agreement initiated and signed by the parties in November; and he ordered the Bishop of Ugentina to put it into effect. However, shortly thereafter, or on August 2, 1884, the same Prelate again intervened in the matter and issued a new sentence, completely contrary to the previous sentence, without hearing the Participants. As soon as the Participants learned of this, they immediately appealed to the Sacred Congregation of the Council, requesting that the second sentence of August 2 be declared devoid of any validity.

Dispute: The Rights of the Participants. The lawyers of the Participants argue that the cause was assigned to the Archbishop of Edessa to be definitively resolved without the clamor of a trial. Furthermore, they contend that, since the sentence of June 13 was issued, it should be enforced, because it was just and valid, and, above all, because, being irrevocable, it has become a res judicata. They infer the justice of such a sentence first, from the fact that not only the Ugentina Curia, but also the former Bishop of Lycia, who was once the Bishop of the Ugentina Diocese, and even the Chapter of the Cathedral Church, testify that the parochial income was notably increased after the suppression [of the religious order]; second, because they assert that they themselves freely gave their consent to the increase in the parochial income, because the parish priest had verbally promised them...

[*Latin ed. p. 501*]

It is alleged that [the parish] is obligated to return whatever remains of the original endowment that was due to it. However, those involved claim that this oral agreement existed, and that the Archbishop of Salzano deduced it from two documents, one dated April 29th and the other November of 1881, both signed by the parish priest himself. Having considered these facts, he issued his judgment in favor of the participants, stating that nothing is more appropriate to human faith than what has been agreed upon between the parties (i.e., *ff. de pactis*); furthermore, the judgment protects justice, because the participants have suffered a loss due to the increase in the parochial endowment: for as the parochial endowment increases, so too do the individual portions of the participants decrease. They assert that the condition of the parish priest has indeed improved after the conversion of the assets, based on testimonies presented by the Ugentina Curia, the Bishop of Lycia, and finally, the Cathedral Chapter. However, they claim that the condition of the participants has worsened, necessarily resulting from the fact admitted by the parish priest himself, and confirmed by the priest Bisanti, who was involved in the matter and who held a posi-

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tion as Chancellor of the Curia, namely that the participants had declared that several properties belonging to them were included in the parochial endowment. Therefore, they demand that the judge, delegated to hear the case, be called to testify outside the choir, while in another judgment, dated August 2nd, it is stated that the participants had their pensions reduced because the parish priest reported a lower real income for the purpose of calculating the inheritance tax imposed by the government. They do not demand that the parish priest compensate them if they have suffered any loss due to this report; but they claim the fruits of the properties belonging to them, which were assigned to the parish priest in order to increase the original endowment. They argue that the judgment was valid and therefore deserves to be enforced, because it was submitted to the legal process. They maintain that nothing presented in opposition can undermine it, namely, the defense presented by the parish priest at the time.

[*Latin ed. p. 502*]

502. They have not been able to prepare the necessary documents for the appeal, because the documents pertaining to the matter were found with the Sacred Congregation for Councils, before which another cause had to be considered. They observe that, before the Sacred Congregation for Councils, there was a dispute concerning the conduct and scandals of the parish priest, which differed greatly from the matter that was to be considered by the delegated judge; and they state that there is no valuable reason why moments of argument relevant to the present question should exist before the Sacred Congregation for Councils. However, after considering a brief argument presented by the opposing party, they recall that thirty days, with a double summons, were assigned by the Prelate for the parish priest to appear; and that, for more than two months, the patrons waited in vain for the arrival of the judge: which they consider to be sufficient time, both for preparing a defense and for transcribing the moments of argument, of which, at the very least, mention should have been made to the judge. Finally, they state that the aforementioned sentence, which was communicated to them, was neither friendly nor just nor valid; nevertheless, they urge that it must be delivered for execution, because this is required by the nature, character, and force of this clause. They observe that, according to Reiffenst., lib. 2, decret., tit. 28, de appellat., § 10, n. 283, the doctors state that such a sentence cannot be delivered for execution, unless the Prince has admitted the appeal, as stated in C. Pastorales 18, § De Offic. Delegat; but this did not occur in this case, because the appeal was never presented to the Prince. They further assert that the appeal interposed with the delegated judge is to be considered of no value, firstly because the opposing party should have demonstrated that they appealed in a timely manner; and secondly because the appeal should have been interposed not with the delegated judge himself, but with the Sacred Congregation for

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Councils that delegated him. (See De Luca, Miscellan. disc. 25, num. 3, par. 1, and Leuren, For. Ecclesiast. 2, q. 1664, n. 2). In the second chapter, they assert that the second sentence issued by the delegated judge on August 2, 1884, cannot be upheld. To demonstrate this, they observe that, between the delegated judge...

[*Latin ed. p. 503*]

UGENTINA 503 and the ordinary, among others, have this notable difference: the judge, whether ordinary or not, if he has rendered a judgment that is, by law, invalid and null, can revoke it and reopen the case (leg. 1, cod. de sent. et interlocut. omn. iud. et I. if the accusers, Cod. de accusatione). - Because, in that case, his ordinary jurisdiction remains with respect to that cause, in which he has indeed rendered a final, but invalid, judgment. The judge, on the other hand, delegated to a particular cause, having rendered a final judgment, ceases to be a judge, and therefore cannot correct it any further, because he has fulfilled his office, whether well or poorly. (leg. Iudex ff. de re iudicata. Cap. In litteris 9 de offic, et potest. Iudic, delegai). All Doctors and Canonists agree; among others, Reiffenst. Lib. 1 Decret. § 6. De cessatione Offic. Iud. Delegat, n. 147, and lib. 2 decret, tit. 27 de sentent, et re iudic. % 2 n. 37, Ferraris Bibliotheca Canonica V. Delegare n. 60 et 61, de Luca disc. ’ò6 n. 5 de iudiciis et in Sum. de iudice num. 115. They state the reason for this difference, Reiffenst. in lib. 2 tit. 27 de sent. et re iudic. § 2 num. 87, because, indeed, ordinary jurisdiction is natural and favorable, and therefore it is more readily deferred to than delegated jurisdiction. Given these principles of law, it is clear from the letters of the Sacred Congregation [C.C.] of January 20, 1884, that the Archbishop of Bdessen was delegated to a particular cause; and it is also clear from the facts that a judgment was rendered in that cause on June 13, which definitively and irrevocably decided the matter, and that the execution of that judgment was entrusted to the Ordinary of Ugentina; it necessarily follows that his authority and jurisdiction expired when the subsequent judgment of August was pronounced, and therefore that the latter must be considered invalid and null, and therefore cannot in any way be ordered for execution. Furthermore, they add that it is invalid because substantial formalities were neglected in it, not only those required by positive law, but also those required by natural law itself: namely, that before the definition of the cause, both the plaintiff and the defendant should be summoned.

[*Latin ed. p. 504*]

504. It is argued that the urgency of the matter, and the points of reason which contribute to a proper definition of the case, are not sufficiently considered. Canon Law, *Iudicantem* 50, question 53. Furthermore, it is argued that the participants, not having been invited to present their rights before the definition of the case, are proven correct by the deposition of

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the urgent court, which affirms this. It is asked whether it is permissible to proceed in the matter of summary judgment; the answer is that, in such judgments, in accordance with the common teaching of canonists, only those formalities are omitted which are imposed by positive law, but not those which, as in this case, are necessary by natural or civil law for a legitimate decision of the case, as testified by Riffenst., book 2, *Decret*, title 1, on Judgments. It is also wrongly opposed that the summons to appear was unnecessary, because the participants had already presented all their rights; indeed, before the sentence of June 13th, the participants had presented nothing more than two petitions. However, the necessary proofs and legitimate defenses, which, according to Clement, *Saepe contingit* on the word "sign," include legitimate and reasonable exceptions, could not, by any means, have been presented, because, as the urgent court testifies, the participants were never summoned to appear before the pronouncement of the second sentence. Moreover, it is argued that they should have been summoned, because the judge, in the first sentence, already communicated to the parish priest, seemed to admit that an oral agreement existed between the parish priest and the participants regarding the making of the denunciation, of which, however, not a word or a trace is found in the subsequent sentence. Indeed, in this sentence, the participants are blamed for faults, if, in the year 1869, the revenues were lower than those which they were actually receiving from their own contributions, revenues which had been assigned to them by the government. Finally, it is observed that both fact and law are contradicted by what the delegated judge states in the second sentence, regarding the right granted to the parish priest to administer his proper parochial funds. In fact, there have never been, in the canonically separate rectory of Presicce, any such funds, but goods...

[*Latin ed. p. 505*]

UGENTINA 505: Omnia constituerunt massam quam illi "communitariam" vocant. Verum est, quod, sicut Sacra Congregatio Ordinum decrevit, generaliter loquendo, parochus tenetur, ex mandato Capituli vel Cleri, res massae communitatis denuo adhibere, quae ab fisco accipit sub titulo "congruae parochialis." Hoc est magis verum in casu, cum Vicarius generalis et antiquus vice-cancellarius ample vicerunt, partes duae tertiae bonorum parocho ab imperio assignatas, ad participantes ante suppressionem legis pertinuisse. His et aliis argumentis adductis, patroni concludunt sententiam diei 13 Iunii 1884, participantibus, fuisse amica, iusta et validam, immo vero, definitiva et inappellabilem in auctoritate rei iudicatae, et ideo, ad executionem tradenda esse. Contra, sententiam diei 2 Augusti, favore parochi pronunciatam, ipsius iure nullam fuisse; ideoque, in rem iudicatam neque transire potuit, neque transire potest: immo, nec sententiae nomen mereatur, ob defectum iurisdictionis in iudice, qui eam pronunciavit, et ob spem sollemnitatum, ne dum a iure positivo, verum

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etiam a iure naturali inductas, et ideo, ad executionem mandari non potest.

IURA ARCHIPRESBYTERI. Patronus praemonet, quod Archipresbyter non tria monita accepit ad adducenda iura sua apud iudicem delegatum, sed unum tantum ei transmissum fuerit a Curia Ugentina sub die 22 Martii 1882, et huic, licet nullam contumaciae comminationem contineret, protinus paruerit, quantum potuit. Praemonet etiam, ex epistola Iudicis delegati 2 Maii 1886, clare apparere, quod ipse, ad monitis participantibus, copiam purgandi contumaciae Archipresbytero praebuerit, et quod iudici, in vim clausulae rescripti S. C. C., sine strepitu iudicii, inappellabiliter definivit, delegata potestas fuerit ius dicendi inter litigantes absque temporis limitatione, et sola aequitate inspecta, et silente omni iuris rigore, ut Ubertus Tract, de citationibus, cap. 8, n. 290. His obiter notatis, contendit constare de reiudicata sententiae diei 2 Augusti 1884, primo quia, plena consilii...

[*Latin ed. p. 506*]

506. ARGENTINA: A judgment, once rendered irrevocably, with the explicit declaration of contumacy, and which fully resolves and settles the controversy, overturning the adjudged matter, must, by its very nature, be prepared for execution, which cannot in any way be delayed. Especially since the judgment in question was pronounced without due process, having been heard only from one party, the other being absent without fault. Furthermore, even if it were not rendered irrevocably, it nevertheless becomes a res judicata, as is to be considered, because within the prescribed time, no appeal against it was made, whether it be the days following the presentation of the latest pleading by the opposing party, or the days following the publication of the decree of the Sacred Congregation, during which an appeal was not possible. Finally, it is insisted that the judgment is indeed res judicata, based on the response of the Sacred Congregation, which, rejecting the requests of the opposing party, declared that there was no basis for an appeal, not only because the judgment of August had already become res judicata, but also because, even if it had not yet become so, it ordered that it should be considered as such. And it is wrongly asserted by the opposing party that such a judgment cannot be considered res judicata due to a presumed defect in the jurisdiction of the delegated judge. For, apart from the fact that there are serious authorities who do not deny the power of revoking a judgment to a delegated judge (Augustin in *leg. 55, n. 6 ff.*, concerning res judicata; Boer. *decis. 6, n. 3 et seq.*; and Vant. *in tract., null. rubr. coram quo possit etc., n. 14*), they completely concede this power, especially when, as in this case, we are dealing with a contumacious judgment. Indeed, contumacious judgments are equated with interlocutory decrees, in which each party has the right to oppose before the same judge who issued them (Text in *leg. 8, n. ff.*, concerning res judicata; and Glossa *verb. quod iussit*). The Rota also affirms this in *Corduben. decimarum, 28 Aprilis 1753, cor. Bassio, § 7*, and in *Moguntin.

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Traslationis, 43 Feb. 1758, cor. Parracciano*. Furthermore, it is added that contumacious judgments are based on the presumption that the contumacious party either admits the validity of the claim, or is treated as if they did.

[*Latin ed. p. 507*]

UGENTINA 507 should admit what is true and just, even if presented or requested by the opposing party. Furthermore, he who has purged himself of delay, alleging a just cause for absence, can eliminate the presumption against himself, since those legitimately hindered are not considered contumacious, nor do they suffer the penalty of contumacy; Reiffenst. vol. 2 § 2 on deceit and contumacy. Schmalzg. part. 2 title 14 § 2 no. 38. And this procedure also applies to a delegated judge, especially if the jurisdiction of this judge is limited to a certain time. The Sacred Roman Rota, in the matter of the fideicommissi in Romana, on June 4, 1674, cor. Emerix. And more clearly in Recent, part. 17, decision 318, no. 2; Reiffenst. in the aforementioned place. And with greater reason and equity, assistance should have been given to the Archpriest, since he was not truly contumacious, but presumed to be so; since it is not proven that he received three warnings, or even one for three, but only one, and that without a specified deadline. And even in the hypothetical case that he had received three warnings, since his documents remained with the records of the Sacred Congregation, before which another case regarding his suspension was being considered, he could offer a just and legitimate excuse; since the preoccupation with another cause holds the principal place among the impediments that excuse from contumacy, Reiffenst. in the aforementioned place, and Schmalzg. in the aforementioned place. Since, therefore, simple contumacy does not constitute a just cause for depriving someone of his rights, as is stated in Fagn. lib. 2 c. O. Perpetuus no. 25 and following, with the best of counsel, the delegated judge deemed it appropriate to assist the Archpriest, so that justice would not suffer prejudice and damage because of the strictness of the law. Finally, even admitting that the sentence of contumacy has been issued, and that the judge's jurisdiction has expired, there is no doubt that the Sacred Congregation could extend it. Indeed, the Sacred Congregation has stated this, when writing to the parties involved, that there was no basis for an appeal. This decision of the Sacred Congregation seems to have been ratified, whatever the judge may have said.

[*Latin ed. p. 508*]

508. The delegate from UGENTINA: therefore, if, by a hypothetical supposition, there had been no revocation of the sentence of August 2nd, it would have been validated by ratification; since the principal force of ratification is to validate that which is null due to a defect in the mandate. Donnellus, volume 3, page 718, numbers 5 and 6, and page 719, number

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7. He maintains that there is absolutely no doubt about the intrinsic justice of this sentence, because the appropriate parsonage, amounting to the sum of 1383, was, from all burdens, exempt, and was established by the domain, according to the average of ten years, by order of the governor of the treasury. Secondly, because the domain, having taken from the parson the appropriate parsonage already assigned to him, under the pretext that it was larger, was forced to return it to the same amount after having administered that same domain for two years. Thirdly, he states that the same result follows from the confession of those same participants, who, in order to obtain a reduction of burdens, presented their case to the Holy See in the year 1872, before the seizure of the church's assets, and stated that their portion amounted to the sum of 500, after deducting expenses and burdens. From this, it follows that at least the sum of 1383 belonged to the archpriest, since a double portion was due to him, according to the laws of the church; one, namely, exempt from all burdens, and the other, as with the other participants, subject to burdens. Finally, the same conclusion must be drawn both from the "sentence of the civil tribunal, before which the archpriest called upon the domain, when it was again attempting to reduce the appropriate amount by the participants," and from the sentence of the delegate, which has been invoked on several occasions. After considering both of these, the following question was proposed: Whether the matter is considered definitively decided, so that there is a basis for the execution of the sentence of June 13, 1884, or the sentence of August 2nd of the same year, in this case.

RESOLUTION. The Sacred Congregation, having considered and examined the matter, on December 11, 1886, decided to respond: "Previous restitution..."

[*Latin ed. p. 509*]

UGENTINA S09. The restoration to the integral state does not consist of a prejudice against the participants in the assignment of the parochial tithe in favor of the Archpriest. CAUSE OF ACTION. From this resolution, having obtained the benefit of a new hearing, the advocate for the participants maintains that the parochial tithe, after the law of suppression assigned to the Archpriest, is far greater than that which he previously enjoyed, and that it has been largely constituted from the goods of the participants, to their great detriment. Indeed, he asserts that the goods belonging to the parochial church of Presicce were divided into eleven portions by a concordat of the year 1711, approved by the Bishop and the King, of which two were reserved for the Archpriest; one indeed, free from all burdens for the parish priest, and the other, subject to common burdens for the participants. However, from a subsequent convention of March 11, 1853, it is alleged that the Archpriest received four properties, while the parish priest received five properties. These two portions, according to the testimony

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of the Episcopal Curia, yielded an annual cadastral income of 413 *lire*, although the actual annual income amounted to 700 *lire*. Furthermore, it is asserted that the parochial tithe, which was not constituted of more than two portions, but rather of almost seven portions, and those more substantial and largely belonging to the participants, has been declared so, both by ecclesiastical and civil authority. Thus, the parochial tithe, which previously consisted of an actual annual income of 700 *lire*, increased to over 3000 *lire* after the suppression. And this, he affirms, occurred to the great detriment and prejudice of the participants; because it can be argued that the actual tithe has been increased from a larger and better portion of the goods belonging to them, as can be seen from the aforementioned division of goods of March 10, 1853, which remained in full force until the law of suppression; as can be seen from the sentence of the Archbishop of Hydruntinum of February 6, 1881; and as can be seen from many...

[*Latin ed. p. 510*]

510 Regarding the depositions of the Episcopal Curia: not only from the declaration of the Bishop of Lycia, formerly the Prelate of the Ugentina Diocese; but also from the unanimous deposition of five surveyors, by whom, whether due to their knowledge or their integrity, the Curia declares that they are to be considered trustworthy. Therefore, having thus secured the parish priest's position, and with notable detriment to the participants, the advocate concludes that the parish priest must restore to them everything by which he has become enriched, since it is contrary to the law of nature for one to become richer at the expense and injury of another. *I. de reg. iur. 206; I. de condici, indebiti; also Reg. 28 de reg. iur. in 6, and Reg. 22 de Reg. Iur. in 6.* And this is all the more so, because, both from the opinion of the Archbishop of Hydruntum, and from the depositions of the Ugentina Curia and the Bishop of Lycia, it is clear that the parish priest and the participants had reached a verbal agreement, by virtue of which he was to pay to the participants, as compensation, whatever remained due to them from the original portion, which he had been obligated to pay. This is further confirmed by the actions of the parish priest himself, who certainly would not have accepted the agreement concluded on April 29, 1881, in the town of Salve, nor would he have undertaken the obligation to pay each participant 800 *lire* instead of the 951.50 *lire* that they demanded, for sums not paid by the parish priest over eleven years; nor would he have delivered 3200 *lire* to Aloisio Saracca, in favor of the participants, for sums previously unpaid, until the outcome of the legal proceedings, unless he believed himself to be bound by some obligation. Indeed, even if it were admitted that no verbal obligation existed, or that, by a new and more appropriate regulation, the participants had suffered no detriment; nevertheless, the Sacred Congregation [of the Holy Office] maintains that the parish priest is obligated to contribute to the common fund of the parish

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the sum assigned to him, since this is in accordance with the doctrine transmitted by the Sacred Congregation to the Bishops on July 15, 1878, for resolving such matters.

[*Latin ed. p. 511*]

ARGENTINA 511. Controversies of this kind are discussed in the Chapters, or in the records of the Clergy, following the subversive laws enacted in the Kingdom of Italy. Hence, it is asserted that the parson is far from the truth, claiming that the assigned parish, established according to the highest standard in book 1383, is not more substantial than the one he enjoyed before the law of suppression. Furthermore, the reasoning presented by him is of no consequence, since if the parties declared to the Supreme Pontiff that their share before the suppression amounted to 500 livres, they spoke of a real income, not one derived from the land registry. Taking this into account, it can be demonstrated with further documents that the assigned parish does not consist of 1383 livres, but of 3000 livres. Moreover, it is asserted that he is far from the truth regarding the agreement initiated in the town of Salve, which he claims was signed by the parson "through force and fear, and to avoid ecclesiastical penalties." However, it is observed that the agreement was signed on April 29, 1881; and that the penalty of suspension, dated June 1, was not specifically against the parson, but generally against those who were disobedient, and that the aforementioned penalty was not imposed for the acceptance of the agreement, but for ensuring its execution. On the other hand, the archpriest argues that this case cannot be reopened, because there are three judgments on the same matter that are in agreement; whereas, in fact, the judgment of the Sacred Congregation of the Holy Office, dated December 11, 1886, in addition to being in agreement with the three judgments from the demesne, and being relevant to the matter at hand, is also in agreement with the judgment of the civil tribunal of Lyciensis, and with the judgment of August 2, 1886, issued by a judge delegated by the Sacred Office. Since it is forbidden by law to reopen a case after three concurring judgments, as the matter is considered settled by the law of the forum, the parties should be dismissed from the proceedings. However, even setting this aside, the speaker adds that the parties can only be heard to prove the prejudice that they claim has resulted to them from the assignment of the parish, but they themselves...

[*Latin ed. p. 512*]

512 Although it may be permissible for others to wander, it is necessary to depart from established rulings, as it is evident from the proceedings concerning the resolution of December 11, 1886, that they are motivated by prejudice. Furthermore, the speaker asserts that it is absurd to claim that the participants suffered a loss, because, due to a more appropriate allocation, their shares proved to be smaller. In this case, it would be necessary

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to assume that the parish allocation preceded the allocation of pensions to the participants. However, the contrary occurred, and the pension allocation was established five years prior, when the participants reported their income to the government, on the occasion of the so-called "death tax," whereupon the government, according to the provisions of Article 3 of the Civil Code of August 15, 1867, allocated a pension based on their report. Moreover, it is untrue that the parish allocation was increased beyond what was due, since it is admitted that the parish has the right to a double portion, one of which must be exempt from all burdens. Indeed, since the participants, in their prayers to the Most High, confessed that they possessed shares exceeding 500 livres before the convocation of assets, it is clear that there was no excess, nor any injury, in the parish allocation; for the government granted assets to the parish, the income from which, according to a ten-year average calculation, amounted to 1383 livres. And the truth of the matter is demonstrated by the fact that it cannot be supposed that the government, devoid of its innate desire to consume, would have shown such a strong inclination towards the parish as to have granted it more than what was due for the parish allocation, or to have allowed itself to be defrauded, while the participants vehemently protested. Furthermore, it is demonstrated by the three investigations conducted after the allocation of the parish share, instigated by the participants, which were carried out at different times by the same "demanio," with the aim of discovering and adding to the increase that the participants had repeatedly reported, and to expose it. This is also demonstrated by the fact that the same "demanio,"

[*Latin ed. p. 513*]

UGENTINA SI 3, persevering in the discussion with those participating in asserting that it had become more abundant, it resumed the same agreement and ministered for four years, in order to certainly ascertain whether it was truly more abundant; and yet, its own knowledge and experience convinced it that the agreement had not increased even by a trifle, and it should relinquish it, leaving the same quantity as it had been originally assigned. This very thing is finally demonstrated from the judgment of the civil tribunal of Lyciensis, which, five years after the dispute concerning the parsonage's share between the parish priest and the demesne had continued, finally recognized the share of the parish priest, commonly called Presicce, as valid. But can these arguments be refuted, or can testimonies brought forward to the contrary prevail; or the declarations of the episcopal curia and of some cathedral canons of the Church? Not those, because they are obtained from those who are far from the town of Presicce, and therefore are ignorant of the matter. Nor these, because two canons, both older, the Uxentinus syndicus, and more honest citizens, testify as to the intention with which they were induced to give their testimonies. With new testimonies brought forth and doubts clarified, the purpose was to

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resolve the customary doubt: Whether one should adhere or recede from the decisions in this case. RESOLUTION. The Sacred Congregation, after mature deliberation, on September 10, 1887, gave the following response: With a prior adherence to the decisions, the agreement of April 29, 1881, must be maintained. In response to the prayers of the Archpriest, the matter was proposed under the customary doubt: Whether one should adhere or recede from the decisions in this case. The Sacred Congregation, on February 11, 1888, confirmed the resolution of September 10, 1887, with the following definitive response. In the decisions, second place and further. Acts, Vol. XX, page 33.

[*Latin ed. p. 514*]

514. ARGUMENTS FROM WHICH YOU MAY DRAW CONCLUSIONS. I. It is necessary that a final and unappealable judgment, issued by a delegated judge, be delivered for execution, even if it should be neither just nor valid; because this is required by the nature and force of this clause. II. There is only one case in which such a judgment cannot be executed, namely, if the Prince has admitted an appeal based on certain knowledge. III. An appeal from the judgment of a delegated judge is to be made not to another delegated judge, but to the one who delegated the authority. IV. An ordinary judge, if he has rendered a judgment that is invalid and null by law itself, can revoke it and re-examine the case, because his ordinary jurisdiction remains with respect to that case in which he has rendered a final, but invalid, judgment. V. Conversely, a judge delegated to a particular case, after having rendered a final judgment, ceases to be a judge in that case, and therefore can no longer proceed further, whether he has performed his office well or poorly. VI. The reason for this difference lies in the fact that ordinary jurisdiction is natural and favorable, and therefore is more readily retained than delegated jurisdiction. VII. It is in conformity with both positive law and natural law that, before the definition of a case, both the plaintiff and the defendant should be summoned, and that the reasons which lead to a just decision of the case should be fully explained. VIII. In summary proceedings, in order to avoid lengthy disputes, certain formalities are omitted, but only those which are prescribed by positive law; not, however, those which are necessary for a legitimate decision of the case, according to natural or civil law. IX. The necessary and legitimate proofs, defenses, and reasonable exceptions are included, as Clement teaches. Often, this concerns the meaning of words. X. Contumacious judgments are based on the presumption that the contumacious party has either adhered to his own right, or has accepted as true and just whatever has been alleged or requested against him.

[*Latin ed. p. 515*]

51S X I. Hence, the contumacious person, who has excused their delay

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by alleging a just cause for absence, should not be judged presumptuously against themselves, and those who are legitimately impeded should not, in any way, be considered contumacious, and therefore should not suffer the penalty of contumacy.

XII. Since it is contrary to the law of nature for one to become richer at the expense and injury of another, it follows that he who has become richer in this way should restore to the other everything by which he has become richer.

XIII. In order that a collegiate parson may be obligated to contribute and share with the other canons the greater revenues assigned to him by the laws of the Kingdom of Italy, it is not necessary for the canons or participants to demonstrate that the parson has suffered a loss from this, but it is sufficient to demonstrate that he has received a profit from such laws.

XIV. It appears that the Sacred Congregation of the Council has decreed that the convention of April 29, 1881, should be observed, because it maintained that it had been freely initiated, and that the parish, after the division of goods, had become more prosperous.

FANEN. CONCERNING THE FACULTY OF BINANDI.

Liege, September 1887.

By summary petition.

Within the parochial district of the locality of Piagge, there is a church called di Cerbara, where formerly there was a chaplain who ministered to the spiritual needs of the surrounding inhabitants, and which now lacks its own priest. The village and church of Cerbara are three thousand paces away from Piagge, and are connected by a difficult path, and are adjacent to some rural settlements belonging to neighboring parishes. There are two priests in Piagge, the parson and his coadjutor, who are nevertheless necessary for their own parish, which is somewhat more populous.

COMPENDIUM OF FACTS.

[*Latin ed. p. 516*]

516. Furthermore, the parish priest requested, and the Bishop implored, that one of the priests of the locality of Piagge be granted the faculty of saying Mass in the place of Cerbara. This permission was granted for three years, with the special condition that, provided the application for the second Mass for the benefactor, who used to provide alms for the chaplain, remained in effect, the alms could be used for the construction of a new church to be erected in the locality of Piagge. Now, after three years have passed, the parish priest and the Bishop request not only the extension of this grace, but also that the faculty of saying Mass be extended to certain

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days, not those that are strictly festive, that is, to the second and third days of Easter, to the second and third days of Pentecost, to the day of Saint Stephen, the first martyr, and of the holy Innocents; and also, that if, by chance, the priest who requests to say Mass in Cerbara, for the purpose of celebrating the first Mass, for just reasons, could not attend the parish church, it would be permissible for another priest who remains in Piagge, and who has already celebrated, to say the second Mass.

Synopsis of Discussion. It has been noted that, with regard to the first request, whether the faculty of saying Mass can be granted for days not included in the list of holidays is a debatable matter. Indeed, since the precept of hearing Mass does not apply on those days, the principal reason for the dispensation is lacking. And therefore, the Holy Office, in Lingon, on January 23, 1847, through the aforementioned request, restricted the faculty of saying Mass to only those days that are strictly obligatory. Moreover, when the Bishop of Namur explained to the Holy Congregation of Rites the days that had been abrogated by the faithful of his Diocese by the Indult of Cardinal Caprara on April 9, 1802, so that they might still be considered as holidays, and requested that the faculty of saying Mass be granted to those priests to whom the same permission was granted to say Mass on Sundays or on obligatory holidays, the response to him was: "It is not advisable," as stated in Gardellini, no. 4932, in a document from Namur, September 11, 1841. Nevertheless, the repetition of Mass, not only to fulfill the precept of hearing Mass, but also to foster piety...

[*Latin ed. p. 517*]

§ 517. Furthermore, and in order to give honor to the divine name, there is no reason why, on other days as well, especially those on which the people are accustomed to gather at the church and dedicate themselves to divine worship, the same grace should not be granted. It seems that, perhaps for this reason, the Sacred Congregation of Rites has adopted a more lenient discipline in some recent cases. Thus, in Argentina, by a decree of September 17, 1859, it granted permission "for five years, with the blessing of His Holiness" to celebrate the Mass on the feast of the Circumcision, which day had been removed from the list of ecclesiastical feasts by the Indult of Cardinal Caprara and remained only as a feast of devotion and civil observance. Similarly, in a communication from Tours and Lingon on August 24, 1878, in response to requests from Ordinaries for the celebration of the Mass on certain feasts and other days, the Sacred Congregation of Rites replied: "For the granting of this, 'with the blessing of His Holiness,' for five years." However, something hinders the second part of the request, namely, it does not seem appropriate for the same priest to celebrate the Mass twice in the same church, unless there is a true and proper necessity. Nevertheless, the circumstances must also be considered. For example, two Masses are celebrated in the parish of Piagge, because the people are nu-

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merous, and this is customary and expected by the parishioners from their priests. Moreover, it is a very great hardship for a priest, especially if he is elderly or fasting, to travel three miles in each direction on days of winter cold, storms, or summer heat, and to perform sacred duties both here and there. To avoid such a serious inconvenience, piety might suggest some relaxation of the rigor of ecclesiastical discipline. Especially since the repetition of the Mass in the same church and by the same priest is not absolutely prohibited by the sacred canons. In any case, regarding other Masses, it is sufficient to mention a passage from the Constitution *Declarasti nobis* of Pope Benedict XIV, in which the Pontiff says: "From these things, it is clearly evident that it is not permissible for a parish priest, if another priest is present, to celebrate two Masses on feast days, so that the people may attend the sacrifice of the Mass, or if the Mass is to be celebrated in two churches, which are distant from each other, as..."

[*Latin ed. p. 518*]

518 In the aforementioned Synod of Lima, or if there is only one church in which Mass is celebrated, and to which the entire people cannot conveniently gather together, as in the Synod of Nîmes, these two cases are to be considered under the same law. Having stated these preliminaries, the question was raised as to what should be the response to the petition. RESOLUTION. After the matter was discussed by the Sacred Congregation on September 10, 1887, it was decided to respond: "For the granting of a further extension of three years, only for the feasts of precept, with the understanding that the verbal agreement with the bell is fulfilled; and it should be written to the Bishop, according to the opinion expressed by the Under-Secretary." REGARDING THE PROCEEDING OF AN APPEAL IN MATTERS OF NULLITY. On December 17, 1887. Session 22, Chapter 7, Concerning Reforms. The Apostolic Administrator of the Diocese of Melegana proposed the following to the Sacred Congregation: namely, that in that island, a custom had arisen whereby it is easy for one party to seek to suspend the marriage of the other by creating an impediment, 'so that no progress is made,' and therefore, often giving rise to opposition, whether due to a spirit of vengeance, unseemly conduct, or any other levity; and in these cases, the Episcopal Curia most frequently rejects such an impediment. The opinion of the Episcopal Curia, contrary to the aforementioned impediment, being recorded, the party who presented the impediment has ten days within which to file an appeal. To pursue this appeal, they have a period of one year; so that the betrothed are forced to postpone their marriage for the entire year. SUMMARY OF THE MATTER. It must be admitted that the person presenting the impediment has the right to take steps to ensure that the appeal is processed within the year; but this rarely happens; because those who create an impediment 'so that no progress is made,' most often belong to the lowest social stratum, and they do not have

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the means to afford the expenses involved in this.

[*Latin ed. p. 519*]

Therefore, it frequently happens that, with a sorrowful heart, I am compelled to say that a marriage agreement is transformed into concubinage, which the betrothed do not care to abandon, even after a year has passed. What was once deemed sufficient for a single year now seems to be adequately covered by a period of two months, as Rome can be reached more quickly. Furthermore, it must not be omitted that very rarely do those who appeal proceed with due diligence, indicating that they acted either from a corrupt or frivolous disposition. Therefore, the Prelate concluded, in order to avoid these inconveniences and scandals, I believe that two months could be established for the appellant to complete the necessary actions before my Tribunal, and to transmit them to the Sacred Congregation; after which, the appeal should be considered concluded, so that the betrothed may safely enter into marriage, through the force of the published decrees.

A Synoptic Discussion: The question is whether, in cases of marriage agreements, the judge of first instance, after rendering judgment, can impose a deadline of two months for the parties to introduce and pursue an appeal before the judge to whom, or, using legal terminology, whether the judge of first instance can restrict the fatal period for pursuing an appeal before the superior judge to two months.

Indeed, briefly summarizing the law, it has been observed that, in appeals, the term "fatal" refers to those periods within which the cause of appeal must be initiated and concluded. These "fatal" periods are so called, as if they bring about the death of the appeal, because if the appeal is not initiated and concluded within those periods, it fails, and the original judgment remains valid. Fatal periods are of four kinds. The first are those for introducing an appeal before the judge from whom the appeal is taken; the second are those for petitioning the Apostolic See; the third are those for presenting the petition to the Apostolic See or for introducing the appeal before the judge to

[*Latin ed. p. 520*]

520. MELEVITANA, which, for the fourth time, is mentioned in connection with the prosecution and completion of an appeal. The fatal term for introducing an appeal, according to the new law of Justinian, *Authenticum*, is ten days. Today, concerning appeals, as canonized in chapter 15 of *De Sententiis* and concerning judicial matters, it is ten days; "for, according to the aforementioned chapter, after a space of ten days, a judgment that has not been appealed loses its character as a pending matter and becomes final." The fatal term for requesting the apostolic letters, that is, the letters by which the appellant is sent from the lower judge to the higher judge, is thirty days. Indeed, chapter 6 of *De Appellantibus* states: "From the one

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who appeals, the Apostolic letters must be requested urgently within thirty days, and they must be presented to the judge within the aforementioned time; otherwise, the appellant is presumed to have renounced his appeal, even if he goes or sends someone to pursue such an appeal, if he fails to request them within the same time." And this is in accordance with the opinion of the Doctors apud Ferraris, volume *Apostoli*, number 11, Reiffenstuel in *ad tit. De appellat*, § 5, and others. Thirdly, there are fatal terms for presenting the apostolic letters or for introducing the appeal before the higher judge; these terms extend to six months, according to civil law, as stated in laws 2 and 3 of the *Codex de temporibus, appellationibus, et causarum progressu*. However, these are not defined by canon law, but rather are left to the discretion of the lower judge. Thus, Ferraris, volume *Appellatio*, number 11: "However, according to canon law, no specific time is found for presenting the apostolic letters, or for presenting or introducing the appeal before the judge to whom it is addressed; but it seems to be left to the discretion of the judge from whom the appeal originates, who, according to the distance of the place, the persons involved, and the nature of the matter or cause, must set a reasonable term within which the appeal must be presented to the judge to whom it is addressed, otherwise, if that term expires, the appeal shall be considered abandoned." Similarly, Reiffenstuel in *ad tit. De appellat*, number 167: "Considering the strictness of civil law, the fatal terms of the law for presenting the apostolic letters and introducing the appeal before the judge to whom it is addressed..."

[*Latin ed. p. 521*]

MELETITANA 521, concerning appellations, states that a period of six months, reckoned from the day the appeal is interposed, must be considered. However, it must be admitted that this term, at least according to common and canonical law, is not definitively established; whatever may have been the case concerning civil law, that is a separate matter. But the judge from whom the term must be determined, as in chapter "Ad aures" 35, *huius textus* – there: – "A reasonable term is assigned to the appellant to pursue the appeal." Scaccia, *quaestiones* 15, on appeals, paragraph 12, Engel, on the title "De appellax," number 48, and other authorities cited above, agree. But although the time considered suitable for presenting the appeal is not definitively established by canonical jurisprudence, and is left to the judge's discretion; it is certain that such a time must be the shortest possible, and in no way can it be extended beyond one year. For, as will be shown shortly from the cited authorities, the cause of the appeal must be concluded within one year, and the law commands this. Consequently, it necessarily follows that not only must the appeal be introduced before the end of the year, but as quickly as possible. Therefore, nothing prevents, and indeed it seems entirely just, for the judge to order the appellant to bring his cause before the superior judge within two months, under penalty of lapse,

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provided that these two months are sufficient for the appellant to reach the superior judge. It remains, therefore, to say something about the fixed terms for pursuing and concluding an appeal. Concerning which, chapter "Cum sit Romana" 5, paragraph 1, on appeals, states: "If an appeal has been made before the judgment, or after it, a year is granted to those who appeal, or, for a necessary and evident reason, two years. Unless, perhaps, the judge from whom the appeal was made has, considering the distance of the place and the nature of the persons and the matter, prescribed a shorter time, within which, if he who appealed has not prosecuted the cause of the appeal, the judgment will stand." The year or two granted to appellants by law must be reckoned from the day the appeal is interposed, as clearly stated in the Clementine Code, on appeals: "The appellant is bound to pursue and conclude the appeal within one year from the day of its interposition."

[*Latin ed. p. 522*]

522. Regarding appeals: If, after a just impediment has ceased, the appeal is not pursued, it shall be considered abandoned. "Concordat cap. Ei qui appellat, caus. 2 Quaest. 6" states: "To the one who appeals, a year is granted, within which he must, in accordance with the common practice, pursue the dispute with his adversary; or, if a just cause intervenes, another year is granted; after which, if the dispute is not completed, the judgment remains valid." Furthermore, it was established in the authentic "Ei qui appellat" Code, concerning the time for appeals. These provisions, established in law, must be carefully considered to properly define the status of the case in question. Indeed, the Apostolic administrator notes that appeals in marriage cases are often made out of spite towards the betrothed, without the intention of pursuing them, without any hope of victory, and only to cause annoyance and delay to the opposing party; and when a full year is granted to the appellant to pursue the case, and therefore the other party is prevented from marrying for a year, serious evils and scandals may arise. Therefore, it is necessary to limit the time that is useful for pursuing the appeal to two months; because this term would be sufficient even for those who truly intend to pursue the appeal. Therefore, if the appealing party does not, within two months, take any action before the Curia, such as sending the necessary documents to the Sacred Congregation, the appeal shall be considered abandoned. Furthermore, it might be objected that the wording is not precisely clear. However, since there is no ambiguity in the matter, it seems appropriate to proceed. Indeed, the words in the decree clearly refer to the time limit for pursuing the appeal. For, concerning the introduction of the appeal before the judge to whom it is made, the inferior judge has the clear freedom to set a preliminary time limit; therefore, it would be useless to request a remedy from the Sacred Congregation, which is entirely within the power of the judge himself. Therefore, the words must

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refer to the time limit for pursuing the appeal. But here, a distinction must be made: for the time limit for pursuing and concluding such an appeal can be considered either from the perspective of the court to which the appeal is made, or from the perspective of the person making the appeal.

[*Latin ed. p. 523*]

MELEVITANA 23. Sub primo aspectu, non videtur propriamente conveniens, nec utile, ut iudex inferior legem superiori praefinita ad causam in suo foro pendendam, ea vel citius vel tardius agendam, anteponeat. Quod ita verum est, ut, sicut Reiffenstuel bene notat in loco citato, numero 183, cum Engel ad titulum de appellationibus, numero 49, et alii, ipsae termini a lege statuti pro appellatione inter unum vel biennium finienda hodie in maioribus tribunalibus observantur, « ubi propter multitudinem causarum, appellationes plerumque in plures annos pendent. » A fortiori, ergo, termini ab homine praescripti observari non debent. Hinc est regula Baldi in summario ad authorem, Si appellatione C. De temporibus appellationum, nempe: « Si stat per iudicem appellationis, non currunt termini. » Quod maxime retinendum est de appellationibus coram S. Sede pendentibus. Ubi praesertim observari debet, quod Reiffenstuel in genere animadvertit in loco citato, numero 136, nempe « quod si vero iudex id fecerit, idest appellanti terminum finiendi appellationem praefixerit, censetur praefuisse terminum ad se praesentandum superiori, seu ad prosequendam appellationem, non vero ad eam finiendam. » Ideoque cum Melevitanus administrator terminum prosequendi et finiendi appellationem ad duos menses coactari postularet, nec potuit intelligere, nec profecto, ut apparet ex contextu, rem intellexit respectu habito ad S. C. C., quasi haec deberet causam appellationis intra duos menses conficere. Sed intellexit respectu habito ad appellantes. Qui, litteris appellatoriis licet tempore utili transmissis, documenta ad causam facentia producere cunctantur, et sic sollicitum iustitiae cursum intercipiunt, atque iniquum finem quem intendunt, legitimas scilicet nuptias impediendi, ex duplicata negligentiae culpa consequuntur. Huc tandem ducta quaestione, et ambigendi ambitu sic circumscripto, E. PP. remissum est definire, utrum expediat permittere ut tam breve temporis spatium appellantibus...

[*Latin ed. p. 524*]

524. Whether, in cases concerning marriages, a judge may determine a deadline for presenting documents and for filing a petition with the Sacred Congregation of the Council. Certainly, the reasons which the Bishop mentions are of the utmost importance, and do not represent an absolute violation of the law; for, according to chapter 50 of the *Instructio Ex insinuatione*, and as stated in *Romana* above, the judge before whom the appeal may be brought can prescribe a certain time for pursuing the appeal,

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and, for a reasonable cause, can shorten the term granted by law. This may, and indeed ought, to be done especially when the safety of the Republic or of souls is threatened, according to the common opinion of the Doctors, as cited by Reiffenstuel in the aforementioned place, number 90. With these premises, the following question was to be resolved: Whether a judge, before whom an appeal may be brought, can shorten the term of two months for pursuing an appeal in a case.

RESOLUTION. After deliberation, the Sacred Congregation of the Council, on December 1, 1887, decided to respond: "Nothing is to be changed."

FROM WHICH, THE FOLLOWING MAY BE GATHERED:

I. It is not permissible for a judge of first instance, after concluding the judgment, to impose a deadline of two months on the parties for pursuing an appeal before the judge to whom the appeal is brought.

II. For, by law, a period of one year is granted to appellants, to be reckoned from the day the appeal is filed, for pursuing and concluding the appeal; and if they do not do so, with a just impediment removed, the appeal is considered abandoned.

III. The inconveniences presented in the matter, arising from a practice that is not generally good, were not considered to be so serious as to require a reform of the common law concerning the time granted to appellants.

[*Latin ed. p. 525*]

525 MILAN. ONERIS, December 17, 1887. Session 25, chapter 8, Concerning Reforms. SUMMARY OF THE MATTER. The parish priest of the place of Saint Peter in Salo, from the suburbs of the city of Milan, in a petition presented on February 17 of the following year, to the Sacred Congregation of the Council, stated that within the boundaries of his parish, and precisely on the estate commonly called "La Corba," where several families of farmers reside, there exists a public oratory dedicated to Saint Charles. To this oratory, it is known, since the year 1837, a pious endowment of 12 Masses has been transferred: indeed, there are found there certain documents indicating a revenue from Mass offerings amounting to nearly 40, inscribed as follows: "Endowment of Masses instituted by Barbara Barbiano-Simonetta, to be celebrated in the Oratory of Saint Charles, in the estate commonly called Corba." It should also be remembered that the aforementioned estate of Corba, together with the annexed oratory, was formerly part of the domain of Caesar [Comite] of Castelbarco Visconti-Simonetta; who, considering the families of the place, which today comprise approximately 400 souls, to be too distant from the parish, and wishing to provide for their spiritual well-being and benefit, arranged for the celebration of Holy Mass to be held continuously in the aforementioned oratory on each festive day. In order that the inhabitants might not be deprived of this

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great benefit in the future, by testamentary dispositions dated August 25, 1860, he decreed: "I bequeath to my son, Joseph, the estate of Corba, with the obligation of celebrating Mass on festive days in that oratory; and I understand and order that this obligation be absolutely and infallibly maintained." After the death of Caesar of Castelbarco, his son and heir shortly thereafter sold the aforementioned estate to the priest Caietano Zucchi; nevertheless, it was stipulated in the deed that both obligations, namely, both the Masses on festive days and the endowment of 12 Masses, should be fully observed. In the year 1874, however, the priest Zucchi, having himself entered the path of all flesh, bequeathed all of his possessions to his heir.

[*Latin ed. p. 526*]

526 MILAN. He established the larger Milanese hospital; however, in his will, he did not specifically mention the aforementioned two obligations, which remained unfulfilled for several years. For four years, the parish priest of St. Peter in Salo, working with the hospital administration, endeavored to have both obligations recognized, so that the administration not only reimbursed the parish priest the sum corresponding to the missed Masses bequeathed by the Barbiano-Simonetta family from the year 1878 to the year 1886, but also contributed 8.50 lire each day of celebration for the celebration of Mass in the oratory, according to the disposition of the Count di Castelbarco. The parish priest believed that this sum of 8.50 lire, in each instance, should be given to the priest celebrating, and that this obligation did not involve an application, but was given due to the inconvenience of travel and time: therefore, he added an alms of 1.50 lire to the priest who went there, for the purpose of application. However, in the recently concluded year, a question arose regarding the manner of fulfilling these pious obligations, and the parish priest, between himself and the hospital administration, finally reached an amicable agreement, whereby the administration would reimburse 10 lire on each day of celebration, and the parish priest would undertake the obligation of fulfilling the Barbiano-Simonetta Mass bequests. With these matters explained, the parish priest of St. Peter now requests that the Sacred Congregation [for Religious] declare whether the Mass, which the Count di Castelbarco ordered to be celebrated in the Corba oratory on days of celebration, must be applied for the benefit of the founder. And, to the extent that it must be applied, he requests a dispensation for the past time, and that the aforementioned Mass may be applied on twelve days of celebration in satisfaction of the Mass bequests from the legacy of Barbara Barbiano-Simonetta. He also requests that the alms of 10 lire, through the application of a Mass offered either spontaneously or from bequests, be increased by 1.50 lire; so that a priest may be found who would be content with this aforementioned alms. The Milanese Ordinary, testifying to the truthfulness of the oratory's requests, earnestly

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commends them.

[*Latin ed. p. 527*]

MILAN. 527. A Synopsis of the Matter. THE APPLICATION OF THE MASS APPEARS TO BE EXCLUDED. Indeed, if the words of the testator, as mentioned above, and the very nature and purpose of the foundation itself are considered, any obligation of application seems to be excluded in this case. For, from the wording of the words, the celebration of the Mass is clearly enjoined, but there is absolutely no mention of any obligation of application. Furthermore, if the form of the prescription contained in the will is examined, the obligation of application is clearly not derived from it, and it seems that such an obligation cannot be imposed on the conscience. For a will makes law, and, according to the Doctors, no law can impose a certain obligation that is either null or doubtful, according to the well-known principle: "In doubtful matters, that which is least burdensome should be followed." Nor does it matter that Cardinal De Lugo states in *Disputationes de Eucaristia*, 20, section 1, number 23, that in those who give alms for Masses, or establish chapels, unless the contrary is specified, it is always presumed that the Masses are offered for them; for it could be answered that this presumption holds when, from the nature of the institution and from the circumstances, the contrary is not inferred. However, in this case, it is quite clear from the circumstances that the testator did not intend to impose any obligation of application, since the purpose and very reason for the establishment was to allow the inhabitants to hear the sacred rites more easily, in which case the obligation of application has always been excluded by the Sacred Congregation; as can be seen in *Amostaz. De causis piis*, book 3, and in the decrees of the Sacred Congregation in Novare, November 22, 1727, in Spoleta, September 18, 1751, and in the most recent decree of Montealto, July 7, 1883, in which, in a case of precisely the same nature, the following response was given: "It does not follow that there is an obligation of application." This is further confirmed by the fact that, as the parish priest observed, in the archives of the noble house of Castelbarco, after careful investigations, no evidence was found, no trace, from which it could be inferred that Count Caesar, or his son Joseph, or the priest Zucchi, intended to impose an application.

[*Latin ed. p. 528*]

528 MILAN. It has never been prescribed that priests should successively celebrate Mass in a chapel. Therefore, this method of interpreting the testator's will has always been maintained and preserved until now. THE APPLICATION OF THE MASS SEEMS NOT TO BE EXCLUDED. On the other hand, it is well known to all that the sacred rites cannot be performed without application; for when anyone obligates himself to the priestly ministry of celebrating Mass, he intends that that sacrifice be offered for his benefit,

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and in the very celebration, the obligation of application is to be considered imposed, unless it has been expressly excluded; Pignatelli, *Consult.* 139, n. 15, vol. 1. To this principle, "that in ambiguous matters the least should be followed," another can be opposed from rule 45 of the *Iuris in VI*, namely, "that in ambiguous matters, one must consider what is more likely"; and it is certainly more likely that he who ordered the celebration of Mass also considered the benefit of his soul. This is always to be presumed, unless the testator has shown a contrary intention; Benedict XIV, *De sacra et. miss.*, book 3, chapter 9. It does not hinder that the testator, who is speaking on this matter, has not expressly stated the burden of this application; since "those things which are inherent in the nature of the matter are of little consequence, whether they are expressed or not, because they are understood"; I., *Aliquando* 106 ff., on conditions. Indeed, what follows from the very words should be considered as expressed; I., *cum quod* ff., and *cert. pet.*, and I., *Praetor* § 1, ff., on new observations, now. *Gloss.*, v. *Expressum*. Hence, the Holy Congregation, in a decree from Milan, September 18, 4654, declared that Mass should always be offered for the founder, when he has not declared that he wishes to leave the application at the discretion of the celebrant. Therefore, if the E.E. Fathers have judged in this sense, namely, that the burden of application is present in this case, then two subordinate points remain to be defined: 1°) regarding absolution from the past, 2°) regarding reduction in the future. Furthermore, with regard to the first, good faith favors the chapel, which has always been considered a just cause for granting a remission.

[*Latin ed. p. 529*]

MILAN. 529. The Holy Congregation, having read the petition concerning a reduction and dispensation, dated April 27, 1805. Regarding the reduction of Masses requested by the Reverend Castelbarco for feast days in the chapel of the relics, it was deemed prudent to defer the decision, considering the present circumstances, especially since the clergy is greatly diminished, and it is scarcely possible to find a priest who would willingly undertake to celebrate Mass in the countryside on feast days. Furthermore, the following questions were proposed for consideration: I. Whether the arrangement made by the Reverend Castelbarco to celebrate Mass on feast days in the chapel of Saint Charles entails an obligation in this regard. And, II. Whether and in what manner assent should be given to the requests of the parish priest of Saint Peter in Salo in this matter. RESOLUTION. The Sacred Congregation, having considered the matter on February 18, 1887, decided to respond as follows: To I. Negatively. To II. Provision is made in the first. FROM WHICH THE FOLLOWING ARE GATHERED: I. It is generally understood that the Sacrifice of the Mass is to be applied for the benefit of the founder, because the term "to celebrate" is commonly understood to signify the obligation of applying the Mass; unless the will of the

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testator indicates otherwise, either expressly or by urgent conjectures. (1) II. It appears that the intention of the founder of the Mass in the chapel for feast days was to benefit as many inhabitants as possible in their spiritual well-being and convenience, who are located far from the parish church. (1) See Vol. III, 525; Vol. V, 577; Vol. VIII, 651; Vol. XV, 198; Vol. 231, page 194. Acts, Vol. XX, page OCXXXVIII, 34.

[*Latin ed. p. 530*]

830 CAMERINO. REGARDING THE COMMUTATION OF VOWS. December 17, 1887. Through summary petitions. The priest, Forconi, from the Camerinense Diocese, reported to the Sacred Congregation: The sisters Marianna and Loreta M. had, by testament, designated their own souls as general heirs after their death, and had named themselves as the executors of this disposition. The value of these inheritances amounted to 1238.39 scudi; of which, 270 scudi were lent to Anthony M., nephew of the two sisters, with prior apostolic approval. 879.92 scudi were given for the celebration of Masses for the repose of the souls of the deceased. And 72.40 scudi were distributed in various acts of charity, especially to nephews from the brother of the aforementioned two sisters. Of what remains, 20 scudi, he stated, will be given to charity, and 80 scudi will be used for the celebration of Masses for the repose of the souls of the two sisters. Now, the testamentary executor is seeking, for two young, unmarried girls from that family, who are very poor, orphaned by their father and mother, and dedicated to the service of the nuns, that the Apostolic See grant them, as an act of charity, 270 scudi each, which were lent to Anthony M., and which the testamentary executor himself is obligated to collect for the celebration of other Masses, according to the testament. The testamentary executor recommended these petitions. The Archbishop, questioned about the matter, reported that everything stated was entirely true, and that, apart from the aforementioned relatives, there are no others with an interest, and that the need is public. With these considerations, and since the closest relatives are truly poor and in need of assistance, the Ordinary stated that, in his opinion, these petitions should be granted in all respects, especially concerning the charitable donations, and also concerning the transfer of the rights of the aforementioned sum of 270 scudi, owed by the aforementioned Anthony, in favor of the aforementioned Argilinda and Michaelina M. SUMMARY OF THE MATTER.

[*Latin ed. p. 531*]

The *Synopsis* offers considerable relevance to the matters discussed here, particularly what Reiffenstuel states concerning the title "De Testamentis" at the end, paragraph 820, where the learned Doctor poses this question: "How should executors behave if the testator states: 'I wish these [goods] to be applied for the salvation of my soul, or for the glory of God'?"

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And he responds: "In this case, the executors fulfill their duty if they apply the inheritance to one or more pious causes; among which, undoubtedly, are the poor, so that in a similar case, even the entire substance of the inheritance can be given to a single poor person if that person is in need. Menochius, Book 4, *Praesumat*, paragraph 1, and the common opinion of others. The reason is that, truly, the will of the deceased is fulfilled when whatever is spent for a pious cause, whether for one or many, is done for the glory of God and the salvation of the soul." Similar statements are found in the ecclesiastical discussion 148, volume 4, of Pitonius, where, among other things, the following is read: "Whenever an institution or substitution is found for the soul of the Testator himself, such a disposition is equivalent to an institution for a pious cause, or for pious works, so that the entire patrimony should be allocated to pious works, for the relief and suffrage of the soul of the deceased, according to Bartolus, *In I. 1. 64 De sacros Eccles.*, Clarus, Book 3, *De Testamentis*, question 6, paragraph 6, Genuens, *Practicab. Eccles.*, question 446, paragraph 6, Velaschus, *Allegat.*, 68, paragraph 4, Carp, *De Execut.*, Book 3, chapter 9, paragraphs 6 and 15, Lara *De Capellán*, chapter 10, final paragraph, Book 1, etc. — Maranta, *Resp.*, 4, paragraphs 50, 63, and 74, volume 1, Molin, *De Iust. et I.*, volume 2, discussion 154, paragraph 3." This same opinion was held by the Rota in the case of *Maioricen. Successionis*, on June 26, 1710, and again on February 23, 1711, and finally on April 15, 1712; where, since someone had made a will with the following formula: "I call my soul into all my inheritance, and for it, may God, our Lord Jesus Christ," the Rota approved the division of goods that the Bishop had made among various parishes and other pious causes.

[*Latin ed. p. 532*]

532 CAMERINEN. And although someone might think that two witnesses, by invoking them in the testament, had primarily intended to understand that their heir should bequeath their goods for the benefit of the soul through the application of Masses; it could be observed that, in reality, this was indeed the case, since a greater part of the goods had been used for this purpose. And if, finally, someone were to doubt that in this particular case, the formula in the testament should be understood as meaning that all the goods were to be divided for the celebration of Masses, as if the executor himself were to retain something; it was left to the discretion and wisdom of the Most Reverend Fathers to determine whether there was a case for changing or interpreting the will, in order to assist the poverty of relatives, whom the Archbishop himself commends, along with the executor of the testament. With these things noted, the question was asked as to what should be answered in prayer. RESOLUTION. The Sacred Congregation, having knowledge of the matter on December 1, 1887, decided to respond: It does not require [an answer].

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GAETA EXCHANGE. On February 18, 1888. Through summary prayers. By a testament of April 13, 1848, Blasius Bore, from Monticelli in the Gaeta diocese, bequeathed to the Sanctuary of the Blessed Virgin Mary of Civita two properties: one urban, the other rural, whose presumed income amounted to the sum of 30 scudi, with the obligation of celebrating proper funeral rites each year, and also of reciting 40 Masses for the repose of his soul and that of his relatives. He also bequeathed to the chapel of the Blessed Virgin of Sorrows, erected in the church of St. John, a room, a field of sown land, and a small pond, from whose lease 15 scudi were received each year: and all of these things were to be used so that a Mass might be sung on the feast of the Virgin of Sorrows, funeral rites might be performed, and 10 Masses celebrated for himself and his deceased relatives; all of which were to begin with the death of the last heir with usufruct.

SUMMARY OF THE CASE.

[*Latin ed. p. 533*]

GAETA 533. Furthermore, Teresia Battisti, the testator's wife and designated usufructuary, although she had relinquished her right by law, according to the testamentary dispositions, because she had entered into a second marriage, nevertheless, having come into possession of all the assets of the inheritance through a cession made to her by Blasii Bore's mother, Iosepha di Vezza, the other usufructuary heir; Teresia, before her death, donated all the hereditary assets to her subsequent husband, Ferdinando Cardinale. Therefore, he, who since the death of Teresia, has been in possession of all these assets, testifies that he has, until this day, taken care of several Masses in suffrage for the soul of the pious testator, and to fulfill the intentions of the aforementioned; now, however, he requests that, while retaining the properties and other assets bequeathed to him, he may, in their place, contribute a corresponding sum to the sanctuary of Gaeta and the chapel of the Most Holy Dolors, to be safely invested, and determined by the Sacred Congregation, so that it may be established as a perpetual endowment. The Archbishop, having been requested to report on the assets of the inheritance and on the legitimate reasons for the petition, himself, in a letter dated June 26, 1887, stated that he had not been able to complete the valuation of the assets due to the resistance of Ferdinando Cardinale; who, in the meantime, had petitioned the Sacred Congregation with new prayers, requesting a dispensation, citing several reasons relevant to the matter, especially to avoid expert fees, and because he considered this valuation of the funds to be almost useless, since the testator himself had indicated anticipated revenues, in proportion to which he imposed charges. From this, he concluded that while the declared revenues of both legacies were 45 ducats, which

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represent 900 ducats, he, on the contrary, is prepared to offer one thousand ducats to the Archiepiscopal Curia of Gaeta; which will be able to invest the sum with the favor of the pious legatees, according to its prudent judgment. Disputatio Synoptica. PRAYERS TO BE REJECTED ARE SEEN. Such prayers are primarily objectionable because pious institutions are not intended for the revenues of legacies, but...

[*Latin ed. p. 534*]

534 In Gaeta, [they] have a right to the properties in question; for the testamentary dispositions stipulated that, in the absence of heirs with usufructuary rights, the properties should pass fully into the ownership of the Church. Indeed, canon law expressly prohibits the alienation of Church property; Cap. 5, "Nulli liceat" [It is not permitted to anyone]. And this is all the more so in the present case, since the refusal to assess the value could engender fear that a serious fraud might be committed. Moreover, if it is deemed expedient to exchange the legacy and, in its place, to accept a sum of money as compensation for the properties, it seems harmful to the pious cause and injurious to the testator's will to determine this sum without a prior assessment of the properties. On the one hand, the pious cause has a right, at least to the actual value of the properties, and not to that value which the testator, forty years ago, presumed through a preliminary assessment; this value, if it is now greater than it was formerly, should accrue to the benefit of the legatee or the pious cause, as is well known. On the other hand, it does not seem to be in accordance with the testator's will to determine this sum without first properly proving the validity of the inheritance; for he bequeathed the properties in specie. If he expressly indicated presumed revenues, it was perhaps to show that the validity of the legacy was not to be outweighed by imposed burdens. But from this, it does not follow that his intention was not implicit that all revenues, whatever they may be, from the properties themselves should be assigned to the pious cause. PRAYERS ARE TO BE OFFERED. Nevertheless, it should be noted that, provided there is a clear benefit to the Church, alienation can certainly occur, as stated in canons 7 and 8 concerning the alienation of Church property. Indeed, the Archbishop observed that in this case, there are no external circumstances that would cause the proposal offered by the speaker to be judged acceptable and favorable to the Church; this is because the Church of St. John, which was formerly a recipient, is now suppressed and legally incapable of possessing; the assets of the sanctuary of Delia Civita, which until recently...

[*Latin ed. p. 535*]

Gaeta 535, formerly administered dependently by the Ordinary, are now declared municipal properties and are administered at the will of the municipality. Therefore, it is highly probable that the aforementioned prop-

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erties, if they were to be assigned to churches as would be fitting, would already be in the hands of those whom the testator neither intended nor wished to benefit. Furthermore, he stated that this legacy, which has not been fulfilled for 40 years, can be considered as having been forgotten, so that today, due regard must also be given to the good will and disposition of the orator, who wishes to provide and, as circumstances permit, to ensure the proper fulfillment of the enjoined obligations. It must also be noted that if difficulties are opposed to the good will, preventing the heirs of the orator from fulfilling the promises, little or nothing can be hoped for, since there is no one in the present situation who has an interest and would take action to claim the legacies. Finally, considering the revenues indicated by the testator, justice seems to be preserved in some way, and the churches are not unjustly defrauded; and what is more important, the legacies in the will can be firmly enforced, so that the testator's will remains safe and intact in substance. Based on these considerations, the Archbishop said, the offer made by the orator can be accepted, to the benefit of those churches which would otherwise be placed in a disadvantageous position, obtaining nothing. Only the sum of one thousand two hundred ducats could be somewhat increased, so that the full amount of 45 ducats, which the testator expressly established for each obligation, would remain. With these preliminaries, the question was asked as to what answer should be given. RESOLUTION. After deliberation, on February 18, 1888, it was decided to respond: "By virtue of [the relevant legal provision], with prior absolution regarding the past, for the sake of obtaining an exemption, the sum of 1200 ducats should be paid in good faith, to be prudently and usefully invested by the Archbishop, for the benefit of both pious causes."

[*Latin ed. p. 536*]

536 Todi. REGARDING THE REDUCTION OF OBLIGATIONS AND THE CONFERRAL OF BENEFICES. February 18, 1888. Through summary petitions. A SUMMARY OF THE CASE. On August 21, 1886, three brothers, the Astancolle family, presented a petition stating that they were the patrons of three benefices, which they had redeemed from the treasury, the endowment of which, formerly more substantial, now consisted of 300 livres in cash and 7000 livres in land; but that the land was subject to a mortgage of 7500 livres due to the unfortunate management of their father's affairs. They requested absolution from the obligations incurred by their father, and furthermore, that the three benefices be united into one, and that this united benefice be conferred upon another of their brothers, a priest named Aloysius. The Bishop and the Chapter, since two of these benefices were located in the cathedral, agreed; but the Chapter also insisted that, upon the extinction of the Astancolle family, the Chapter itself should succeed to the patronage, and furthermore, that the Astancolle family should pay 50 livres annually, by which the diminished endowment of

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the benefices would be restored. In response to these petitions, the Sacred Congregation declared: "With prior absolution regarding past transgressions, for the sake of granting that the three benefices be reduced to one, with an annual obligation of 45 masses to be celebrated at three altars, according to the petitions, and that the benefice thus united be conferred upon the priest Aloysius; and with the understanding that the brothers Astancolle shall issue a valid renunciation, in the proper form of law, in favor of the priest Aloysius, with rights derived from the emancipation (1)." However, this final clause, which the Sacred Congregation wisely and prudently added, has not been carried out due to the unworthiness of another of the brothers, and therefore, the endowment of the benefices is again in jeopardy. This was related by the priest Aloysius; while the petition was still pending, the youngest of the brothers became so deeply indebted that another brother and a third party had to intervene to pay the price of that share of the property, which was subject to a lien (See Recole, Vol. XIX, page 585).

[*Latin ed. p. 537*]

FROM TUDERTIN, dated 537, having been resolved; with the intention that the integrity of the goods be preserved. Therefore, when the condition of the petitioner has worsened, he again requests that the granting of this benefit be suspended, due to his most miserable state; however, under the condition of fulfilling the obligations, according to the decree; of paying off debts, etc. Upon being asked for information and a vote, the Bishop wrote the following: "Regarding the new petitions, the primary reason for them, if we are not mistaken, is the lamentable economic condition of the family of Astancolle, which is burdened with a considerable amount of debt, and whose only patrimony consists of the remaining benefices, of which, in the petitions, almost all have been mortgaged; although the petitioner possesses a substantial parish benefice, with which he supports himself, his brother Julius, and his family."

"Therefore, we believe that the only way to preserve something of the favor of the Church from the united benefices is the same one that we indicated in the last of the aforementioned information, namely, that the petitioner should pay annually to the ecclesiastical treasurer of this Our Diocese at least fifty florins, which must be made productive in some monetary fund for the benefit of the pious cause; all the more so because, in addition to the other things requested, he now also requests the disbursement of sixty scudi, which sum must be paid by the petitioner in order to settle the promissory notes. However, it is to be feared that new mortgages may be imposed on the remaining benefices, which are already heavily burdened with mortgages, even against the will of the possessors, especially if the petitioner, God forbid, dies before the requested period of twenty-seven years has elapsed; therefore, let the Holy Congregation decide what is best

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in the Lord."

Therefore, according to the Bishop's judgment, the petitioner's request is dangerous, and would expose the endowment of the benefice, which is already too diminished and too burdened, to the imminent danger of total ruin. With these things noted, the question was posed to the Eminent Fathers: what should be answered to the petitioner?

RESOLUTION. The Holy Congregation, having considered the matter, on February 18, 1888, decided to respond: "In the deliberations and with the intention of: it is decided that they should seek a settlement according to what has been recommended by the Bishop."

[*Latin ed. p. 538*]

538 FROM THE DECREES OF BISHOPS AND REGULAR CANONS OF SPOLETO, OR RIETI, March 9, 1888. SUMMARY OF THE CASE. This cause was concluded and decided in a plenary meeting held on June 10, 1887 (1). However, the Bishop of Rieti did not acquiesce to the resolution, and, both in his own name and in the name of his parish priests of Leonessa, he requested a new hearing at an opportune time. And, having obtained this, at the request of the Bishop himself, a letter was written to the archiepiscopal curia of Spoleto, requesting that an authentic copy be sent of the Bull by which the parish of Saint Maximus was separated and the parish of Villa Bigioni was established; and also of the act by which the priest Aloysius Bigioni was elected as the parish priest of the same Villa. Upon receiving these documents, it was ordered that the case be reopened. SYNOPTIC DISCUSSION. The parish priests contend that Aloysius Bigioni has no right to a vote in the distribution of the funds, which were assigned by the testator Visçardi. They argue that, either, under the name of "vote" is understood the right of expressing one's own opinion regarding the qualities of the candidates, and in this sense, his request is useless, since it depends on the diligence and conscience of each parish priest to select and present young women who are poor and virtuous, who should be admitted to the distribution of the dowry funds; or, under this name is understood the intention of acquiring equal rights to other parish priests, and in this case, his request, besides being inadmissible, is also unjust, since it is contrary to the agreement and the rules established by the Delegate Marini, and it infringes upon the rights of those who have already acquired them. RIGHTS OF THE PARISH PRIESTS. (1) Reported on page 278 of this volume.

[*Latin ed. p. 539*]

The agreement, truly and verifiably, according to which the division of the city of Leonessa was to be carried out, approved by the Holy See on July 22, 1839, and ordered to be executed on May 19, 1860, under § 25, stipulates that the parish priests designated by the testator Viscardi shall

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choose young women for dowries and students for assistance, according to the rules delivered by the delegate Marini. Furthermore, the parish priests designated according to the aforementioned rules, which were approved by the Sacred Congregation of Councils by decree of August 6, 1828, are: 1st, the parish priest of Saint Barbara; 2nd, the parish priest of Saint Giles in Vallis; 3rd, the parish priest of Saint Giles in Cornu; 4th, the parish priest of Saint Nicholas; 5th, the parish priest of Saint Maximus; 6th, the parish priest of Saint Donatus; 7th, the parish priest of Saint Michael. Therefore, it is concluded that the parish priest of Villa Bigioni has no right to administer the Viscardi estate, since he was neither called by the testator nor designated by the delegate Marini. Nor has he the power to do anything that the parish priest of Bigioni, who succeeded the parish priest of the parish commonly called "di Corno," suppressed by the agreement of 1859 and ordered to be executed on January 1, 1885, might do: provided that it is understood that, under § 23, article 5, the following is stated: namely, the administration of the Viscardi estate, as it is found in the present circumstances, will remain in such a way that no damage or prejudice is caused to the rights of those parishes that the testator named. From this, it is concluded that the parish priest of Villa Bigioni cannot replace the parish priest of the parish commonly called "di Corno," because to do so would violate the rights of Vallis Leoninae, which was united with "di Corno" to the detriment of the young women of Villa Bigioni, who would be replaced by the parishioners of Villa Bigioni. Furthermore, it is observed that the inhabitants of Villa Bigioni were formerly subject to the parish of Saint Maximus, and as such, they regularly contributed to the assistance provided by the pious estate. Indeed, after obtaining independence, the parish priest of Villa Bigioni would acquire greater rights; conversely, the parish priest of "di Corno" would lose whatever rights belonged to him and to his parishioners according to the provisions of the Viscardi estate. This is made even more apparent from the enumeration of rights, which are found in the rules delivered by the delegate Marini.

[*Latin ed. p. 540*]

540 documents originating from Spoleto or Rieti have been found. These documents are, in truth, sufficiently convincing to influence those cited rules, so that everyone may be persuaded of the harm that would befall both the parish of Saint Giles in Como, and its inhabitants, if the parish of Villa Bigioni were to be admitted. Turning to the second question, he cites the provision in § 4 of the founding statutes, by virtue of which, on the anniversary day, each parish priest has the right, either personally or through another, to celebrate a Mass for the soul of a deceased benefactor; to recite the Office for the Dead; and to participate in meetings in which dowries and the names of students are drawn by lot. All of these things are clearly demonstrated by the minutes of meetings from the year 1791 to

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1887, both by delegated priests and by titular parish priests who personally participated, and are duly signed. Therefore, whether one examines the facts or the law, it is concluded that the Abbot of Vallolina cannot be denied the right to delegate another priest, who would represent him as the parish priest of Saint Giles in Como, and thus the difficulty of accumulating two votes in one parish disappears. Regarding this matter, the parish priests request that the decisions made in the meeting of June 10, 1887, be revoked, and consequently, the petition of the parish priest of Bigioni, being utterly devoid of any foundation, surreptitious, and contrary to the statute under which the Viscardi Institute operates, should be rejected from the very beginning.

THE RIGHTS OF THE PARISH PRIEST OF BIGIONI. On the other hand, the parish priest of Bigioni, relying on the vote of the Consultor and the rules approved by the Sacred Congregation of Councils on July 19, 1828, argues, with all his might, that the parish of Saint Maximus was also called by other parish priests, and therefore the village of Bigioni was also called, since it is a fact that the aforementioned parish was part of it. Hence, the inhabitants of the cited village acquired a right, which could not be taken away by its separation from the parish, and with the subsequent erection of Bigioni into an autonomous parish, they were, consequently, placed on an equal footing with others, and were therefore obligated to assist and protect their children in the same way. In fact, the parish priests were designated without any difference between them.

[*Latin ed. p. 541*]

In the Neapolitan Sacred Congregation, Session 541. It is alleged, as an objection, that the parish priest of the village of Bigioni acquired benefits for his relatives, which are said to have been taken from the inhabitants of St. Giles in Corno. However, the village of Bigioni, having separated from the parish, rightly constituted itself as a parish with the consent of ecclesiastical authority, and therefore, its actions cannot be faulted or considered abusive. Furthermore, it is added that, after the perfect union of the parishes commonly called Valle-Leonina and Corno, the new parish, which arose from this union, cannot have greater rights than those belonging to a single parish; therefore, it was fitting that the benefits of this new status be divided among the inhabitants of the new parish. Hence, it is asserted that it is futile to seize upon these circumstances and the cited suppression to bring a lawsuit against the parish of Bigioni, and it is entirely useless to attempt to maintain the situation as if the suppression of the parish of St. Giles in Corno ever took place, which no longer exists, and to exercise all the rights or privileges that previously belonged to its titular. It is also pointed out that it cannot be maintained that the parish priest of Bigioni acquired possession and the exercise of rights in any way that is detrimental to other parishes of almost equal standing, since he, having

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recently been appointed parish priest, did not have a church or residence in the city of Leonessa. To this objection, it is responded that the inhabitants have already acquired the same right from the very beginning of the institution; therefore, despite the division, this right has been transferred to the proper parish priest, as has been abundantly demonstrated in the previous consultation. In the worst case, it is invoked the commonly accepted saying, according to which, just as in matters that are odious, a stricter interpretation is to be made, so in matters that are favorable, a broader interpretation is to be made, according to the passage of the law of Juris in 6: for odium is to be restricted and favors are to be expanded. Finally, its right is defended by the very actions of the opposing party.

[*Latin ed. p. 542*]

42. The matter concerning Spoletum, or rather Rieti, urgently requires clarification, since, while they have recognized the parochial right of the parish of Villa Bigioni, they have also, at least in part, granted the petition. From this, it follows that he should enjoy the same right as other pastors. Regarding the second point of the question, moreover, he strives to demonstrate, with all possible force, that the right claimed by the pastor of Villa Leonina, namely, to appoint another priest to act in his place according to his will, is utterly unfounded. Indeed, he calls this claimed right an absurd subterfuge, arguing that, since there is only one parish, only one vote should be given. Furthermore, he observes that there is no valid reason to justify such a delegation. And even if such a reason existed, it would be of no consequence, because, in the favorable hypothesis for the pastor of Villa Leonina, the delegated priest would not represent a distinct pastor, but rather the delegating pastor; therefore, only one vote should invariably be given. In this matter, the pastor of Bigioni implores a response, clearly and definitively stated, in order to prevent disputes, which, especially among pastors, could arise to the detriment of the faithful. Therefore, having considered these various points, the following question was proposed for discussion: Whether and in what manner one should adhere to or depart from the decisions in the first and second questions in this case.

RESOLUTION. The Sacred Congregation, after carefully examining the new arguments, gave the following wise response in a plenary session on March 9, 1888: Regarding the first point of the decisions, it is decided that the pastor of the parish of Villa Bigioni shall have a vote with the pastor of San Massimo, by turns, to be determined by the prudent judgment of the Archbishop of Spoletum, and furthermore.

THEREFORE, IT IS UNDERSTOOD THAT:

I. Agreements and conventions are to be observed strictly.

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II. The pastor of the parish of Villa Bigioni has been granted the right to one vote.

[*Latin ed. p. 543*]

SPOLETO, OR RIEITI, 543, concerning the parish of Saint Maximinus, to be served in turn, because at the time of the initial agreement, the parish of Saint Maximinus was still joined to the parish of the place called Villa Bigioni, which had not yet been separated from it. III. It is not contrary to the will of the testator, that a priest should have a double benefice. IV. In the diocese of Saint Giles, a double benefice was retained for the priest of the place called Valle Leonina, because the priest of Saint Giles in Corno held a benefice in administration before this parish was united to the parish of the place called Valle Leonina. FROM THE LETTERS OF THE SACRED CONGREGATION OF THE HOLY ROMAN CHURCH, TO THE ORDINARIES OF THE PLACES, CONCERNING MATRIMONIAL DISPENSATIONS. Most Reverend and Reverend Lord, by order of the Most Holy Lord Pope Leo XIII, it has been proposed to this Most Holy Congregation of the Holy Roman Church to examine two kinds of questions. The first concerns the powers with which, in cases of imminent danger of death, when there is no time to appeal to the Holy See, it is fitting for the local Ordinaries to grant dispensations regarding impediments that prevent marriage, with those who, according to civil laws, are joined in marriage or are living in concubinage, so that those who are dying may, in such a time of distress, be lawfully joined in marriage before the Church and be able to follow the dictates of their own conscience: the second concerns the execution of dispensations which are usually granted by the Apostolic See. Regarding the first, after serious and diligent consideration, and with the approval and confirmation of the Most Eminent Fathers, the Generals of the Inquisition, His Holiness has graciously granted the grace that the local Ordinaries may dispense, either by themselves or through an ecclesiastical person of their choice, to the sick who are in grave danger of death, when there is no time to appeal to the Holy See regarding impediments, whatever they may be, that prevent marriage according to ecclesiastical law, except for the sacred Order of the priesthood and affinity in the direct line resulting from a lawful marriage. Furthermore, it is the intention of the same His Holiness that, if, which God forbid, necessity should arise, to grant dispensations even to those who are marked by the sacred Orders of subdeacon or deacon, or who have made a solemn religious profession, and after the dispensation and the marriage have been duly celebrated, they recover, in such extraordinary cases, the Ordinaries should inform the Supreme Holy Office of the dispensation granted.

[*Latin ed. p. 544*]

544 FROM THE HOLY SACRED CONGREGATION, let the aforemen-

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tioned Congregation be informed, and in the meantime, let every effort be made to remove any scandal that may exist, in the best way possible, either by urging those involved to meet in places where their ecclesiastical or religious status is unknown, or, if that cannot be obtained, by at least imposing upon them spiritual exercises and other salutary penances, and a way of life that seems suitable for making amends for past excesses, and which may serve as an example to the faithful for living a righteous and Christian life. Regarding the second type of questions, these also were approved and confirmed by the suffrage of the aforementioned Most Eminent Fathers, and the Most Holy [Pope] decreed: 1. That all future marriage dispensations are to be entrusted either to the Ordinary of the Oratories or to the local Ordinary; 2. That in the case of an appeal to the Ordinary, the Bishops, Administrators, or Vicars Apostolic, Prelates or Prefects having jurisdiction with a separate territory, and their officials or Vicars in Spiritual Matters, are to be involved, and in the absence of a Bishop, the Capitular Vicar or legitimate Administrator; 3. That the Capitular Vicar or Administrator can also execute those Apostolic dispensations that have been referred to the Bishop or his general Vicar in spiritual matters, or officials, which have not yet been ordered for execution, or if they have begun to execute them, or if they have not. And conversely, once the See is filled, the Bishop or his general Vicar in spiritual matters, or the official, can execute the dispensations that had been referred to the Capitular Vicar for execution, or if he has begun to execute them, or not. 4. That marriage dispensations entrusted to the aforementioned Ordinary are to be executed by that Ordinary who gave the testimonial letters, or transmitted the petitions to the Holy Apostolic See, whether he is the Ordinary of the origin or domicile, or of both, or of either of them; even if, at the time that the dispensation is to be given, the betrothed have left the domicile of that diocese and gone to another diocese, and are not likely to return, with the warning, however, that if it seems expedient, the local Ordinary should be informed, in which marriage is to be contracted. 5. That the aforementioned Ordinary has the right, if it also seems expedient, to delegate the execution of the dispensation to another Ordinary, especially to the one in whose diocese the betrothed actually reside. These things, which Our Most Holy Lord has judged to be granted and established in order to make pastoral ministry more useful and easier, I communicate to you with pleasure, and I pray that all good things may be granted to Your Eminence from the Lord. Given in Rome, on the 20th of February, 1888. EAPH. CARD. MONACO.

[*Latin ed. p. 545*]

545 "LETTER from the Most Holy Pope Leo XIII to the Bishops of Brasiliae concerning the freedom granted to many who, in that empire, were held under the yoke of servitude. LEO XIII. Venerable Brothers, greetings and the Apostolic Blessing. Among the many and most significant demonstra-

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tions of piety which almost all nations have shown, and continue to show, in order to congratulate Us on having happily completed the fiftieth year of Our priesthood, one in particular moved Us, that from Brasiliae, because of the fortunate outcome of events, many of those who, throughout the vast regions of that empire, suffer under the yoke of servitude, have been granted the right to freedom. — This work, full of Christian mercy, undertaken by virtuous men and beneficent women, together with the clergy, has been offered to the Author of all good things, as a testimony of gratitude for the increase of the gifts of age and health bestowed so kindly upon Us. — And it has been received by Us with the greatest pleasure, especially because in this, We are confirmed in the opinion that the people of Brasiliae earnestly desire the complete abolition and utter eradication of the abomination of slavery. To this desire, due deference has been shown by the Emperor himself, and by the august Princess, as well as by those who govern the republic, and also by certain laws enacted and promulgated for this purpose. How much this matter has brought Us consolation, especially because, last January, We declared to the august Emperor – through Our Legate – that We would write letters to the Bishops of Brasiliae, for the sake of the poor slaves (1). We indeed act in place of all men, in the person of Christ, the Son of God, who has loved the human race so much that He not only did not refuse, but willingly accepted our nature, and, having openly testified to His love for the Son of Man, He came among us in order to proclaim the remission of sins (2) and, for the sake of the human race, to redeem it from the most grievous servitude of sin (3), and to restore all things in Him (4), and also to restore the entire posterity of Adam from the common ancestral sin (1). 'On the occasion of Our Jubilee, We desire to give to Brasiliae a particular testimony of Our paternal affection, concerning the emancipation of the slaves.' (Reply to the Address of the Minister of Brasiliae, Souza Correa). (2) Is. LXI, 1; Luke IV, 19. (3) Ephesians I, 10. Acts, Vol. XX, page C C XXXIX, 35.

[*Latin ed. p. 546*]

546 Letters of complaint should restore the situation to its former state of dignity. Saint Gregory the Great aptly states: "When our Redeemer, the Creator of all creation, willed to assume human flesh in order to, by the grace of His divinity, break the bond of servitude in which we were held captive, and to restore us to our original freedom, it is fitting that those whom nature originally made free, and whom the law of nations has replaced with the yoke of servitude, be restored to freedom by the benefit of their birth."

Therefore, it is fitting, and indeed it is the very duty of the Apostle, that we diligently foster and promote all those things by which men, both individually and as members of society, may have safeguards against the many miseries which, like the fruit of a corrupted tree, have flowed forth

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from the fault of the first parent: for such safeguards, whatever their nature, are not only highly beneficial for the cultivation of virtue and humanity, but also are perfectly suited to that complete renewal of things which our Redeemer, Jesus Christ, foretold and desired.

Indeed, among the many miseries, the servitude to which a considerable part of the human family has been subjected for many centuries is greatly to be lamented, as they lie in squalor and filth, and this is entirely contrary to what God and nature originally intended. For the Creator of all things decreed that man should hold a certain dominion over beasts, and over those that live in the fields, and over those that swim, and over those that fly; but He did not intend that man should dominate over men who are like himself. As Augustine says, He willed that man should not dominate over irrational creatures, but over beasts; not man over man, but man over sheep. Thus, the condition of servitude is rightly understood to be imposed upon the sinner. Therefore, nowhere in the Scriptures do we read of a slave before Noah used that word to condemn the sin of his son. Therefore, that name was deserved through fault, not through nature. From the contagion of the first sin, and from all other evils, this monstrous perversion arose, so that men, having rejected the memory of their fraternal connection from the beginning, and no longer guided by nature, should cultivate mutual benevolence and mutual respect among themselves, but, obeying their own desires, began to consider other men as inferior to themselves, and to treat them as if they were born to be yoked like beasts of burden. In this way, without regard for either the common nature, or the human dignity, or the expressed likeness of the Divine, it followed that, through contests...

(1) Lib. VI, ep. 12.

(2) Gen. I, 26.

(3) Gen. I, 25, Noe c. X X X.

[*Latin ed. p. 547*]

LITERARY. 547. And those places, bella, which afterward became inflamed, those who were superior in strength, subjected the vanquished, and thus the multitude of the same kind gradually divided into two parts, the conquered remaining as slaves under the victorious masters. The mournful spectacle of this is explained by the memory of former times, even to the time of our Lord and Savior, when the calamity of servitude pervaded all peoples, and the number of free men was so small that it led the poet to say of Caesar with such cruelty: "The human race lives among few" (1). And this prevailed even among those nations which excelled in all culture, among the Greeks, among the Romans, when the domination of a few was over many; and this was exercised with such wickedness and pride that the masses of slaves were considered as nothing more than property, not as persons, but as things, entirely devoid of rights, even deprived of the power of preserving or taking their own lives. Slaves

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are in the power of their masters, and this power is recognized by the law of nations; for among all, and almost all, peoples, it is observed that masters have the power of life and death over slaves, and that whatever is acquired through a slave is acquired by the master (2). From this upheaval of affairs, masters were able to exchange, sell, bequeath by inheritance, kill, and put to death slaves, and to abuse them with impunity and in broad daylight. Even the most prudent among the pagans, the most distinguished philosophers, and the most learned jurists, attempted to persuade themselves and others, through the greatest injustice of common judgment, that slavery was nothing other than a necessary condition of nature; and they were not afraid to declare that the class of slaves was far inferior, both in intelligence and in bodily strength, to the class of free men, and that, therefore, slaves, as if lacking reason and counsel, ought always and everywhere to serve the will of their masters, in a manner utterly unworthy. Such inhumanity and injustice are most detestable; and once accepted, no oppression of men can be considered too barbaric or too heinous that does not brazenly defend itself under some form of law or right. From this very source, a breeding ground for wickedness, a plague and ruin for states, the books are full of examples: hatred was inflamed in the hearts of slaves, who were constantly filled with suspicion and fear of their masters; some were prepared to unleash their anger, others to endure more cruel treatment; still others were incited to stir up cities, to overthrow them with a slight provocation, to dissolve them in riots and seditions, with plunder and arson, with wars and massacres mixed together.

(1) Lucan, Pharsalia, v. 343.

(2) Justinian, Institutes, 1. I, title 8, n. 1.

[*Latin ed. p. 548*]

In that abyss of the ruin of mortals, many were laboring, and much more wretched because they were immersed in the darkness of superstitions; when, at times ripe for divine counsel, a wonderful light shone forth from heaven, and the grace of the Redeemer Christ abundantly poured itself out upon the whole human race; by this benefit, they were raised up from the dust and the anguish of servitude, and all were completely recalled and drawn from the most detestable service of sin to the most excellent dignity of the sons of God. — Indeed, from the very beginning of the Church, besides other precepts of the most holy life, the Apostles also handed down and impressed upon them this, which is written not once, but by Paul to those reborn from the laver of Baptism: "All you are sons of God through the faith that is in Christ Jesus: for as many as have been baptized in Christ, have put on Christ. There is neither Jew nor Greek, neither slave nor free, neither male nor female; for you are all one in Christ Jesus" (1). "For Christ is all, and in all: all and in all Christ" (2). "For in one Spirit we were all baptized into one body, whether Jews or Gentiles, whether slaves or free,

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and we were all given to drink of one Spirit" (3). — These are truly most honorable, most wholesome testimonies, whose efficacy not only restores and increases the dignity of the human race, but also, whatever the place, language, or condition, they associate themselves with one another and are most closely bound by the bonds of fraternal affection. These, indeed, were drawn by the most blessed Paul, urged by the charity of Christ, from His very heart, who has given Himself most benignly to every man and to all men as a brother, and who has ennobled all, so that He might make them sharers of the divine nature. These are like divinely implanted seeds, which, wonderfully flourishing, have brought forth the hope of public happiness; when, with the passage of events and times, and with the perseverance of the work of the Church, the association of nations has been renewed, becoming Christian and free, like a family. From the beginning, the greatest care of the Church has been directed towards ensuring that the Christian people receive and hold fast the sincere doctrine of Christ and the Apostles concerning this matter of great importance. Already now, through the new Adam, who is Christ, fraternal communion is established between man and man and between nation and nation; to them, as (1) Galatians 3:26-28. (2) Colossians 3:11. (3) 1 Corinthians 12:13.

[*Latin ed. p. 549*]

Letters 549: That salvation and faith, within the limits of nature, have the same origin, and, beyond nature, have the same origin; all being equally drawn to the adoption of one God and Father, since He Himself has redeemed them all with the same great price; all are members of the same body, and all are partakers of the same divine table; all receive the gifts of grace, and all also receive the gifts of eternal life. – With these principles as foundations, the Church strives to bring some mitigation to the burdens and disgrace of the servile life; for this purpose, she has clearly defined the rights and duties of masters and servants, as affirmed in the epistles of the Apostles, and has commendably promoted them. – The Princes of the Apostles thus exhorted those servants whom they had joined to Christ: "Servants, be subject to your masters with all fear, not only to the good and gentle but also to the froward." (1 Peter 2:18). "Obey your earthly masters with fear and trembling, in simplicity of heart, as to Christ; not with outward show, as to please men, but as servants of Christ, doing the will of God from the heart, serving with good will, as to the Lord, and not to men; knowing that whatever you do, whether in word or work, you will receive the reward from the Lord, whether you are a servant or free" (Ephesians 6:5-8). Paul also said to Timothy: "Let every servant who is under a yoke count his master worthy of all honor, that the name of our Lord and Savior may be blasphemed in no way. And those who are bondservants, be subject to their masters in all things, lest they offend in that which is good, and so the word of God be not blasphemed. But if any man among you seems to

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be learned and wise, let him know that it is a good thing to do good, and to abstain from the good of others" (1 Timothy 6:1-2). He also commanded Titus, that he should teach servants to be subject to their masters in all things, not contradicting, not deceiving, but showing in all things a good fidelity, that the doctrine of our Savior God may be adorned in all (Titus 2:1-2). – Those ancient disciples of the Christian faith understood perfectly that from this fraternal equality among men in Christ, nothing of obedience, of honor, of fidelity, or of the other duties by which they were bound to their masters, was diminished or remitted; rather, they gained a great benefit, namely, that these very duties would be more certain, and would be more pleasant and agreeable to practice, and more fruitful in meriting heavenly glory. For they showed reverence and honor to their masters as to those men who possessed authority by God, from whom all power is derived; not before

[*Latin ed. p. 550*]

550 Letters themselves, the fear of punishments, or the cunning of advisors, and the incentives of utility, were effective, but the conscience, the force of charity. Conversely, the Apostle rightly urged masters to show kindness to their servants, so that they might, in turn, render good service: "And, masters, do ye the same in return to them, remitting threats; knowing that both you and your master are in heaven, and that there is no respect of persons with him." They should consider that it is not right for a slave to suffer for his own misfortune, when he is a servant of the Lord, nor, likewise, for a free man to act haughtily and command, when he is a servant of Christ. The precept to masters was this: that they should treat their servants as men, recognizing their humanity, and treat them accordingly, neither separating them from themselves by nature, nor by religion, but preserving them as equals in the majesty of our common Lord. – With these most just laws, and especially with actions conforming to them, the Apostles themselves set an example. A notable example is that of Paul, who acted and wrote benevolently concerning Onesimus, the runaway slave of Philemon: whom he sends back to him with this heartfelt commendation: "But if he has done you any wrong or owes you anything, put this in writing; and I will repay it." Treat him as my own heart, no longer as a slave, but as a beloved brother, according to the flesh, and in the Lord; if he has wronged you in any way, or owes you anything, put this in writing—you can charge it to me. Both ways of acting towards slaves – the ethical and the Christian – are easily seen to be: one, harsh and scandalous; the other, mild and full of honor; and it would be unthinkable that the Church, a minister of such great kindness, should seem to deny the merits of Lodi. – This is all the more true when one carefully observes how the Church, with gentleness and prudence, has eradicated and purged the most grievous pest of servitude. – For the Church did not wish to hasten the manumission and

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freedom of slaves, because, unless it were done prudently and with their own consent, and without detriment to the public good, it could certainly not be accomplished; but rather, with careful deliberation, she sought to instruct the minds of the slaves in Christian discipline, so that they might adopt manners suitable to their baptism. Therefore, among the multitude of slaves whom she counted as her children, if any, tempted by the hope of freedom, should attempt violence and sedition, the Church has always disapproved of and suppressed such vices, and has applied the remedies of patience through her ministers. They should be persuaded that, because of the light and the sign of the holy faith received from Christ, (1) Ephesians 6:9 (2) 1 Corinthians 7:22 (3) To Philemon 12-18.

[*Latin ed. p. 551*]

LETTERS 551 • To those subject to pagan masters, it is highly fitting to show great respect, but this respect must be tempered by religious principles, so that they do not allow anything to be done against them, nor do they fall short of the reverence and obedience due to their masters; but knowing that they are chosen for the Kingdom of God, endowed with the freedom of His children, and called to eternal goods, they should not desire to be burdened by the inconveniences of this fleeting life, but should lift up their eyes and minds to heaven, comforting themselves and confirming themselves in the holy purpose. The Apostle Peter first addressed the servants when he wrote: "For this is thankworthy: if, for conscience towards God, a man endure sorrows, suffering wrongfully" (1 Peter 2:19). "For you are called, because Christ also suffered for him, leaving you an example, that you should follow in his steps" (1). Thus, this great solicitude, joined with moderation, which adorns the divine Church most clearly, is further enhanced by the fortitude of spirit, which is beyond belief in its invincibility and excellence, and which has been so well demonstrated by many servants. It is a remarkable thing that those servants who were an example of obedience to their masters and were patient in all their labors, were never able to be induced, by any means, to prefer the unjust commands of their masters to the holy commands of the Lord, and thus to subject their lives to the most grievous torments, but rather, with serene minds and faces, they endured. The name of the Virgin Patamiana is celebrated by Eusebius for her invincible constancy: who, rather than yielding to the lust of an impious man, sought death without fear, and preserved her faith in Jesus Christ with abundant blood. Similar examples of servants are to be admired, who, when their masters attacked their freedom and their faith in God, resisted most firmly to the point of death. But, history reveals that no Christian servants have resisted their masters for other reasons, or have incited conspiracies or disturbances in the state. In times of peace and tranquility for the Church, the holy Fathers, with admirable wisdom and equal charity, explained the apostolic documents concerning the fraternal union of souls

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among Christians, and they transferred this to the benefit of the servants, namely, to demonstrate that while the rights of the masters in the work of the servants are based on justice, it is by no means permissible for that power to be exercised with cruelty and inhumanity. Among the Greeks, Chrysostom excels, who has often treated this subject, and who, with a joyful spirit and tongue, affirmed that slavery, according to the ancient understanding of the word, was already, at that time, a great...

(1) 1 Peter 2:19-21.

[*Latin ed. p. 552*]

The Christian faith benefits from this arrangement, so that, without appearing presumptuous, a name might be held among the disciples of the Lord, and it would be so. For Christ, (as He briefly explains), when He washed away the guilt contracted from the origin with the greatest mercy, He also healed the manifold corruption that followed in the order of human society; and therefore, just as death, through the removal of terrors, is a peaceful migration to blessed life, so too is the servitude that is removed. Do not call a Christian man a slave, unless he again serves through sins; for brothers are all those who are reborn in Christ Jesus, and are received into the family of God, not progressing from the brilliance of birth, but from the truth; not from the praise of lineage, but from the dignity of faith. And in order that the very essence of the evangelical brotherhood may have a greater effect, it is most necessary that, either in the external customs of life, or in a certain exchange of studies and offices, servants be led to a place very similar to that of domestics and family members, and that those family members provide not only what is necessary for life and sustenance, but all the safeguards of a religious institution. Finally, from the singular greeting of Paul to Philemon, who prays for grace and peace to the Church that is in your house (1), we see that it is rightly established that Christian masters and servants should be treated well, that there should be communion of faith among them, and that there should be a sharing of charity among them (2). — We rightly and justly mention Ambrose; who so diligently pursued all the reasons for this arrangement, and who so clearly attributed proper distinctions to both classes of people according to Christian laws, that no one has done it more fittingly: and it is not irrelevant to say that his opinions are perfectly in agreement with those of Chrysostom (3). These things were rightly and usefully prescribed; but, and this is the main point, they have been faithfully and holily preserved from ancient times wherever the Christian faith has flourished. — Otherwise, Lactantius, that outstanding defender of the religion, would not so confidently stand as a witness: "Someone might say: Are there not among you some who are poor, others who are rich, others who are slaves, others who are masters? Is there not something that distinguishes individuals from one another? No: there is no other reason why we give each other the name of brother, except because

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we believe ourselves to be equal." (1) Ad Phil. V, 2. (2) Hom. XXIX in Gen., or, in Lazar., Hom. XIX, in ep. I ad Cor., Hom. I in ep. ad Phil. (3) De Abr. de Iacob, et vita beata c. III de Patr. Ioseph, c. IV, Exhort. virgin. c. I.

[*Latin ed. p. 553*]

Letters: For since all things are measured, not by the body, but by the spirit, although the condition of bodies may be different, nevertheless, servants are not slaves to us, but we have them and we call them brothers in spirit; bound to us by religion (1). The care of the Church extended to the protection of servants, and, whenever an opportunity arose, it proceeded with great caution, so that they might, if possible, be granted freedom; which would be very beneficial for their eternal salvation. The annals of antiquity attest that events responded favorably. Noble matrons, the most celebrated of whom were praised by Jerome, contributed a singular effort to promote this cause: and, according to Salvian, it often happened in Christian families, even those of considerable wealth, that servants were freed by a generous act of manumission. Indeed, even a more illustrious example of charity was commended by St. Clement long ago; namely, that some Christians subjected themselves to servitude, to converted persons, in order that they might free certain slaves in another way (2). Therefore, besides the fact that manumission of slaves was begun in the temples, as an act of piety, the Church instituted that it should be recommended to Christian faithful who were making wills, as a work pleasing to God and of great merit and reward in His sight: from which arose the idea of bequeathing manumission to heirs, for the love of God, for the remedy or merit of my soul. Nothing was spared in the matter of ransoming captives: goods were given to God, things were sold; gold and silver were consecrated; ornaments and donations of basilicas were alienated: which Ambrose, Augustine, Hilary, Eligius, Patricius, and many other most holy men did not once, but repeatedly. Above all, the Roman Pontiffs acted in this way, who were truly guardians and defenders of all, especially the weak and the oppressed. St. Gregory the Great himself freed as many as he could, and in the Roman Council in the year 607, he wished to grant freedom to those who had decided to live the monastic life: Hadrian I defended the right of slaves to freely enter into marriages, even against the will of their masters: and in the year 1167, Alexander III issued a clear decree to the King of Valencia, forbidding him from adding any Christian to servitude, since all men are made free by God, and no one is a slave by nature. Innocent III, in the year 1200, redeemed Christian captives who had fallen into the power of the Turks, at the request of the founders, John of Matha and Felix Valois, and approved the Order of the Most Holy Trinity (Divin. Institut. 1. V, c. 16).

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(2) 1 Corinthians, chapter 55.

[*Latin ed. p. 554*]

0*54 Letters, and possessed them. A similar Order, that of Saint Mary of Mercy, was subsequently approved by Honorius III and then by Gregory IX; which Peter Nolascus had established with a strict rule, so that those religious men would devote themselves to redeeming Christians held captive by tyranny, if such an opportunity arose. The same Gregory also decreed a more extensive provision for freedom, so that it would be forbidden to exchange Church slaves; and he added an exhortation to the faithful, urging them to offer their own slaves as a sacrifice to God and the Saints, in expiation of their sins. Many benefits were conferred upon the Church in this matter. Indeed, the Church was accustomed to defend slaves from the harshness of their masters and grievous injustices, using the severity of punishments; to offer refuge within its sacred buildings to those harassed by violent hands; to receive freedmen into its care, and to restrain those who dared to reduce a free man into slavery through wicked arts. The Church was even more inclined to favor the freedom of slaves, whether those it possessed in some way, or when it decreed that all slaves should be freed by bishops, who had previously demonstrated a commendable life of virtue, or when it readily permitted bishops to declare those attached to them to be free by their supreme authority. It is also due to the mercy and virtue of the Church that some mitigation of the rigor of civil law was granted to slaves, insofar as it was achieved that the intentions of Gregory the Great were received into the written law of the nations, which was accomplished, especially by Charles the Great, who included these provisions in his Capitularies, as was later done by Gratian in the Decretum. Finally, the monuments, laws, and institutions, arranged in continuous order through the ages, magnificently demonstrate the great charity of the Church towards slaves, whose afflicted condition was never left unattended, and who were always aided by every means possible. Therefore, the Catholic Church, enriched by the immense benefit of Christ the Redeemer, the destroyer of slavery, and the true promoter of freedom, fraternity, and equality among men, deserves, as long as the prosperity of nations endures, to be held in the highest esteem and gratitude. In the fifteenth century, when the fatal stain of slavery was almost eradicated among Christian nations, and when states were striving to establish themselves in evangelical freedom and to extend their dominion even further, this Apostolic See diligently took care that the seeds of this same evil would not revive. Therefore, it directed vigilant attention to the newly discovered regions of Africa, Asia, and the United States, for it was reported that the leaders of expeditions to those lands, and other Christians, were using force

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and deceit to enslave people.

[*Latin ed. p. 555*]

Letters 555 condemn and inflict servitude upon entire nations. Indeed, the cruel endeavors, which sought to subjugate what rightfully belonged to the soil, and to explore and extract the riches of metals, requiring great and powerful efforts, were plainly unjust and inhumane undertakings. A certain trade began, transporting slaves from Ethiopia for this purpose, which, subsequently named "the slave trade," occupied the colonies to an excessive degree. Following this, with no dissimilar injustice, the indigenous people (who are universally called Indians) were oppressed in a manner akin to slavery. When Pius II became more certain of these matters, without any delay, on the 7th of October, in the year 1462, he sent a letter to the Bishop of Rubicon, in which he denounced and condemned such great wickedness. At a later time, Leo X employed all the influence and authority he possessed with the kings of Portugal and Spain, so that they might strive to eradicate this practice, which was both scandalous to religion and harmful to humanity and justice. Nevertheless, this calamity persisted, as the underlying cause, the insatiable desire for possessions, remained. Then, Paul III, anxious with paternal concern for the condition of the Indians and the Moorish slaves, came to the extreme measure of issuing a solemn decree, before the eyes of all nations, declaring that they were owed a just and proper right in three ways: namely, that each one should be able to possess his own rights, to live according to the laws of his own people, and to manage and possess his own property. Furthermore, in letters sent to the Cardinal Archbishop of Toledo, who had acted against this decree, he imposed upon them a suspension from ecclesiastical functions, with the full power of reconciliation with the Roman Pontiff (1). With the same foresight and the same constancy, subsequent Popes also asserted themselves as ardent defenders of liberty, namely Urban VIII, Benedict XIV, and Pius VII; who, moreover, at the conference of the allied princes of Europe in Vienna, brought this matter to the attention of the common council, so that the dispersal of the Negroes, which we have mentioned, might be completely eradicated in many places. Gregory XVI also severely admonished those who were negligent of humanity and the laws, and he revoked the decrees and penalties of the Apostolic See, and he spared no means to ensure that even foreign nations, following the example of Europe, would abstain from and abhor the disgrace and barbarity of slavery (2). It happened most opportunely for us that the highest princes of the world (1) The very truth, June 2, 1559. (2) In the supreme glory of the Apostolate, December 3, 1837.

[*Latin ed. p. 556*]

556 Let the governors of public affairs be encouraged by letters, for it is already sufficient, through their persevering efforts, to have brought an

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end to the long-standing grievances, which are both equitable and in accordance with nature and religion. However, in a similar matter, another concern remains in our mind, which greatly troubles and urges our solicitude. For that most vile trade of human beings, though it has ceased in the sea, is practiced on land to a very great extent and with extreme barbarity; and this is especially the case in certain parts of Africa. For it is evident, from what is perversely taught by the Mahometans, that an Ethiopian or a person of a similar nation is considered to be scarcely more than a beast of burden; and we see with horror the perfidy and inhumanity of men. Unexpectedly, these people attack the Ethiopian tribes, fearing nothing, with the impetuosity of brigands; they raid villages, towns, and farms, destroying everything, plundering, and devastating; they seize men, women, and children alike, easily capturing and binding them, in order to drag them by force to the most shameful markets. These detestable expeditions often originate from Egypt, from Zanzibar, and in part also from Sudan, as if from stations; the men, bound in chains, travel long distances, with the most meager sustenance, and under frequent beatings; to this, the weak are allowed to die; those who survive, are driven along with the rest of the crowd to be sold to a greedy and shameless buyer. To whomsoever each one is sold, he is subjected to the most cruel and almost infamous servitude, and he cannot refuse the commands of his master, even if they are contrary to the laws of God. We, with the greatest sorrow of mind, recently received news of these things from certain individuals, who, before us, wept as they recounted such infamy and depravity; and these accounts are fully consistent with what has recently been reported by explorers of the African equator. Indeed, from their testimony and from reliable information, it has become clear that, like sheep, about four hundred thousand Africans are sold each year; of whom about half perish on the most arduous roads, dying there; so that, to speak truly, as those who travel through those places behold, a road is made of the very bones of the dead.

—Who is not moved by the thought of such great miseries? We, who bear the role of Christ, the most beloved protector and Redeemer of all nations, and who rejoice in the many glorious merits of the Church in all kinds of distress, can scarcely express how deeply we are affected by the misfortunes of these unhappy peoples, how widely we extend our arms of charity towards them, and how earnestly we desire to be able to provide them with all possible relief and assistance, so that, together with the...

[*Latin ed. p. 557*]

Letters 557, having shaken off the servitude of men, the servitude of superstition, may, with us, share in the divine inheritance, and serve one true God, under the most sweet yoke of Christ. May all those who hold authority and power, whether they desire the laws of nations and of humanity to be sacred, or whether they strive sincerely for the advancement

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of the Catholic religion, everywhere conspire, at our urging and request, to suppress, prohibit, and utterly extinguish that commerce which is most dishonest and wicked.

Meanwhile, while men of zeal and industry are opening new routes to the African lands, and establishing new commerce, the apostolic men strive that, as far as possible, the salvation and freedom of the slaves may be considered. They themselves, indeed, will achieve nothing without this, unless, strengthened by divine grace, they are wholly devoted to spreading our most holy faith, and to fostering it more diligently each day; for it is a remarkable fruit of this that it wonderfully promotes freedom, and brings forth that freedom from which Christ has freed us (1).

Therefore, let them consider the life and deeds of Peter Claver, as a mirror of apostolic virtue, to whom we have recently added a fresh laurel of glory; let them consider him who, with unflagging constancy, for forty years continuously devoted himself to the miserable flocks of slaves in Mauritania, truly deserving to be called the apostle of those to whom he declared himself and proved himself to be a perpetual slave. Those men, if they possess charity, patience, and care in taking up and fulfilling these duties, will surely be worthy administrators of salvation, authors of consolation, heralds of peace, who, with God's help, may convert solitude, barbarity, and savagery into the most joyous cultivation of religion and of piety.

And now, Venerable Brothers, our thoughts and letters bring to a close the expression of the singular joy that we feel, and with which we associate you, on account of the measures publicly initiated in this Empire concerning the abolition of slavery. Indeed, since it has been provided by laws, with due caution, that all those who are still in the condition of slaves should be admitted to the order and rights of free men, this, as it seems to us to be good, just, and salutary in itself, also strengthens and fosters the hope for the future advancement of the civil and religious affairs of the nation. Thus, the name of Brazil, in the Empire, will meritably be remembered and praised by all the most humane peoples, and the name of the August Emperor will flourish; for it is said that he desires nothing more than that every trace of slavery be quickly eradicated within his domains.

(1) Galatians IV, 31.

[*Latin ed. p. 558*]

558. Letters are being prepared; diligently attend to this matter, and we earnestly request that you give the utmost attention to the present affair, which is indeed hindered by not inconsiderable difficulties. It is entirely your responsibility to ensure that lords and servants are in harmony with each other in the best of spirits, and with the best of faith, that nothing be lacking in either clemency or justice, but that whatever is to be arranged, all things be conducted legitimately, prudently, and in a Christian manner: for

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what all desire, namely, the abolition and removal of servitude, it is most desirable that this should proceed successfully, without any infringement of divine or human law, without any disturbance of the state, and indeed, for the solid benefit of those whose cause is at stake, namely, the servants themselves.

To these, whether they are already freed or will soon be, we commend certain salutary instructions, carefully considered from the sentiments of the great Apostle of the Gentiles, with pastoral care and paternal affection. Therefore, let them strive diligently to preserve and faithfully express the memory and will of those whose counsel and work have vindicated them in freedom. Let them never prove unworthy of this great service, nor ever mix freedom with license and cupidity; rather, let them use it in the manner befitting well-behaved citizens, for the active pursuit of life, for the benefit and adornment of both family and state. Let them diligently perform these and similar duties, not so much out of fear as out of religion: let them also restrain and avoid envy of the wealth and power of others, which, alas, torments so many of the less fortunate every day, and which provides so many instruments of wickedness against the security and peace of the order. Content with their own affairs and their condition, let them think of nothing more dear, desire nothing more eagerly than the good things of the Kingdom of Heaven, for whose sake they have been brought to light and redeemed by Christ: let them feel piety towards God and the same Lord and Liberator, let them love Him with all their strength, let them guard His commandments with all care. Let the spouses of Christ, the holy Church, rejoice that they are her children, strive to be the best, and diligently render as much love as they can.

You, Venerable Brothers, also insistently urge and persuade these freed individuals with these same things; so that, which is our greatest desire and should be the same for you and for all good people, the fruits of this freedom may, wherever this Empire extends, have the greatest and most lasting benefits, thanks be to God. And that this may happen more happily, we implore the most abundant grace from God and the maternal help of the Immaculate Virgin, and we expose [our intentions]. With the auspices of heavenly gifts and our paternal benevolence...

[*Latin ed. p. 559*]

LETTERS: From Linz, we impart to you, Venerable Brothers, the Apostolic Blessing to the clergy and the entire people. Given in Rome, at St. Peter's, on the fifth day of May, in the year 1888, in the eleventh year of Our Pontificate. LEO XIII, POPE. LETTERS from the Most Holy Lord Pope Leo XIII, concerning the monument erected in memory of Christopher Columbus. LEO XIII, Beloved Sons, greetings and the Apostolic Blessing. We gladly acknowledge that, as stated in your letter dated the day before the Kalends of November, your assembly has approved the erection of a

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most excellent monument in this city, which will illuminate and adorn the memory and name of Christopher Columbus for all posterity. You have rightly judged that your plan would be approved by Us: for it is fitting and proper to honor men of great worth who have deserved well of both the Christian and civil realms; and the magnitude of the deeds accomplished by him, and the abundance of good which flowed from his genius and constancy to both parts of the world, are such that few are worthy to be compared with him. Moreover, his memory commends itself to Us especially by the fact that he undertook arduous journeys, endured great labors, and faced many dangers, in order to show the way to unknown lands to the heralds of the Gospel, who would convert countless people sitting in darkness to the knowledge of the true God and bring them to Christ. Therefore, desiring that the honors bestowed upon so great a man may add further incentives to many, so that they may become imitators of his zeal and virtue, we commend your purpose and endeavors, and together we impart to you, beloved sons, and to all your members, individually and collectively, our paternal love and the Apostolic Blessing. Given in Rome, at St. Peter's, on the tenth day of January, 1887, in the ninth year of Our Pontificate. LEO XIII, POPE.

[*Latin ed. p. 560*]

From the HOLY CONGREGATION OF THE COUNCIL OF PARIS, regarding MARRIAGE, dated February 18, 1888, Session 24, Chapter 1, Concerning Reforms in Marriage. Since the matter of granting dispensations for marriage is involved, and these, considering the integrity of the woman and the justice of the cases, are often granted, a simple and concise explanation of the facts could be presented. However, when in this case the process has been drawn out, and the legitimacy of the actions is challenged here and defended there, it seemed better to present each detail in order, as they appear in the records, so that the Most Eminent Fathers could form a judgment from the beginning of the events, and to more easily understand what is presented by the defender of the bond and, in turn, by the advocate.

On March 10, 1881, in Paris, in the church of Saint Philip of Roule, the marriage was celebrated between Count John Zamoyski and the noble young woman Aloysia Pelissier de Malakoff. She was then approaching her fourth decade of life, while he had already passed his sixth. What preceded this marriage were brief and not always harmonious negotiations and affections. Indeed, at the beginning of October of the year 1880, the man first approached the young woman and declared that he had found her very displeasing; and he decided that he would not wish to see her again. And yet, he maintained that he had done so only by the advice and urging of friends. Therefore, he said: "When, at the beginning of the year 1881, I wished to break off the relations between us due to the inadequacy of my fortune, the young woman and her mother were, in fact, prepared

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for this... I departed for Vienna. But," he continues, "then letters were sent to me in Paris, in which it was announced that Aloysia..."

COMPENDIUM OF FACTS.

[*Latin ed. p. 561*]

PARISIAN. "The breaking of this relationship revealed my sorrow, and I myself regretted the same thing, so that after three weeks I returned to Paris, to reconcile with Aloysia, and on March 10th I would take her in marriage." And he concludes: "I declare that I entered into marriage out of love." Conversely, the young woman and her mother confess that, from the beginning, they had heard from friends that John Zamoyski was a pious and virtuous man, and that he had pleased them through his conversation; therefore, Aloysia, having been sought by John, before her mother and witnesses, pledged her fidelity to him. However, after a short time, quite different opinions arose, both concerning the family's situation and concerning the man's character, especially on the part of the mother, who wanted everything to be different. Hence, the separation of the couple; but Aloysia's desire restored everything, and the marriage was finally celebrated. They were betrothed together for almost four years, but the harmony and happiness they experienced are difficult to express. For the man testified: "I know very well what it is to consummate a marriage, and I consummated the marriage on the second day of our wedding." And further: "Indeed, I consummated my marriage, and in the first four years, at least four times in each week; in the two following years, four or five times in each month; and in the last year, four or five times in the entire year." But, on the contrary, the prelate Koziejeowski gave testimony which has been inserted in that book of *Memorabilia*, which the Count himself recently published; where he describes the vicissitudes and history of his love, and proclaims that everything in it is in conformity with the truth. Thus, Koziejeowski: "Count John Zamoyski came to me in the year 1881, as administrator of the Diocese of Lublin, to seek counsel regarding the marriage he was about to begin with the young woman Aloysia Pelisser. This marriage, it seems, was not consummated, according to the groom's opinion, due to the woman's opposition to fulfilling her conjugal duties; which was the cause of disagreements between the betrothed; thus, as Ant. Tom XX. CO XXXIX. 36 states."

[*Latin ed. p. 562*]

562. The husband ought to appeal to ecclesiastical authority, so that such a marriage may be declared null. Furthermore, witnesses presented by the woman have testified, revealing similar and even more serious conversations with the husband. In particular, the priest Witkowski, superior of the Fathers of the Resurrection, while admitting that he scarcely knew Aloysia,

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and therefore could not swear to her honesty and veracity, stated that the husband had been in close relations with him for 25 years. Moreover, when asked by the judge whether he knew anything about the husband's conjugal relations, he replied: "The husband informed me that, on his part, he had completely fulfilled the conjugal act; that is, he had tried to penetrate, which he succeeded in doing to some extent, but encountered a physical obstacle that prevented full consummation." However, the husband claims that he had only discussed the consummation of the marriage with the Prelate Koziejowski. And with regard to what he discussed with that Prelate, he adds: "Doubting whether the marriage had been consummated or not, I called him only as a counselor, because I was unhappy due to the wife's resistance." Not content with this, although in the alleged places, and elsewhere, the husband laments the wife's resistance; nevertheless, he sometimes represents her as not only consenting, but even desiring the conjugal act. "My wife was often content; but she often resisted." Thus, in the process, and even more clearly in the book of *Memorabilia*. Furthermore, although in his deposition during the trial, in response to the 7th question, the husband had testified about several consummations of the marriage, in response to the 9th question, he considered it necessary to add: "During the conjugal act on several occasions, my wife said: 'You are weak.' But she did not know what she was saying." Conversely, the woman, on her part, testified that before the marriage, she had had some, albeit not complete, conjugal relations; that she had been fully disposed to complete them properly, both from the beginning and always thereafter, and that on the second day after the marriage, she behaved as a docile wife to her husband.

[*Latin ed. p. 563*]

PARIS. 563 times she demanded what was due to her: and at times, she even believed that she had become a mother; but she quickly detected the error, and now maintains that she has certainly preserved her own virginity. Besides this, from the very beginning, the woman appears to have shown a certain concern and attention; but shortly thereafter, she was also tormented, and finally, on certain days and nights, she was beaten with whips, her hair was pulled, and she was thrown about here and there in the bedroom, and she was defiled with spittle; and not only she herself, but sometimes even her mother was a participant and witness to these things: to which were added insults, obscene words, and a vile accusation demanded by the man, often in private, and sometimes even before the very noblewomen who were friends of Aloysia, with whom the man suspected and claimed that she was living in a scandalous relationship. These things are minutely described by Aloysia, who is accustomed to recording everything day by day, and are confirmed by her mother and by several witnesses, and do not seem to be denied by the man, who in his letters

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of February 10, 1885, after the separation, confessed to Aloysia's mother: "I acted brutally towards your daughter, and I would gladly forget the memory of this deed." And to Aloysia, on December 1, 1886: "Now I know how many injuries I have inflicted upon you, and what is my fault; I accuse myself, and I condemn myself." The woman adds that she only once, at the very beginning, had relations with her husband, and that she treated him harshly, because she saw that he was too indulgent in his dealings with servants and with a certain matron; but, except for that occasion, she has always feared her husband, and has never dared to approach him except gently. Conversely, the man produced letters that Aloysia sent to him whenever he was away on business, either his own or for the republic, since he was a delegate to the Austrian assemblies, and these letters were full of love, and always eagerly awaited his return with tender and affectionate words. Therefore, the man argues and proclaims everywhere that Aloysia loved her husband, unless she was incited and corrupted by her mother, of whom she is the guardian, or by her friend Masson; but that she detests her mother-in-law because she is not wealthy. He also adds, with several witnesses whom he has produced...

[*Latin ed. p. 564*]

564 PARIS. It is known that Aloysia, a woman, was of unstable character, suffering from nervous disorders and hysteria, and was not of sound mind, often being reluctant and complaining; indeed, she would have been killed had she not found a most patient husband. Meanwhile, it is certain that, already in the first year of their marriage, the woman had conceived the idea of separation. Indeed, as she herself says, after having learned the true intentions of several people and having made the matter clear to the Archbishop of Paris, I communicated my resolution to my mother, whom I feared would oppose me. The separation occurred shortly thereafter. For, on January 20, 1885, when the husband had departed for Poland, Aloysia, seizing the opportunity, wrote a supplicating letter to the Most Reverend Archbishop, asking that he might alleviate her unhappy condition; and, on February 9, 1885, she informed her husband in writing of the separation that had already been effected, and of the marriage being challenged. The husband notes that, up to the preceding day, February 8, he had always received most affectionate letters from his wife; and that, when he informed her that he would return to Paris the following day, she responded as usual. "However," he continues, "when I arrived in Paris, a certain servant of the Marshal handed me two letters in which the separation of my wife was announced." And at the same time, Aloysia and her mother withdrew to a certain religious house for the sake of safety and protection. In the meantime, the Sacred Congregation responded to Aloysia's request, instructing the Most Reverend Archbishop to endeavor to bring about a reconciliation between the spouses; but this was not possible. For the husband, having

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removed all intermediaries, only requested to speak briefly with Aloysia, which neither Aloysia nor her mother were willing to do; indeed, even the judge declared that it would not be prudent to allow it, given the exaltation of the woman's mind. Furthermore, it was learned at that time, as testified by the priest Wititkowski, who was involved in the matter, that the husband, John, had intended to abduct his wife in order to take her to Vienna.

[*Latin ed. p. 565*]

PARIS. 565 "And indeed, he had already summoned two women, assistants from the local asylum at Passy, and had made all the necessary arrangements. Therefore, despite Aloysia's resistance, who, in fact, sought to have the separation formally sanctioned, the marital union could not be restored. Consequently, the Sacred Congregation of the Council, following an audience with the Most Holy Father, ordered that the proceedings be carried out regularly, both concerning the lack of consummation and concerning the causes for dispensation, by the Parisian court, with the faculty of delegating [authority]. Thus, a tribunal was constituted by the Most Reverend Archbishop on June 19, 1885, and Aloysia was first summoned and questioned. Subsequently, after being served with a summons, the husband was notified, and July 6th was set as the date for his appearance; but since, from the very beginning of the controversy, he had chosen a certain L. as his advocate, the court, in the same summons, informed him that the advocate L. would not be admitted to represent him in the Parisian court. The Count replied on July 5th that he could not be personally present, nor could he defend himself without an advocate; that he had chosen the advocate L., and that he insisted on him, and that he intended to appeal to the Holy See. The court immediately imposed a new penalty, revealing further details about the Count; to which followed a new protestation from the Count, in which, among other things, the court itself was suspected of [wrongdoing]. A third penalty was then imposed, notifying the Count that his protestations had been transmitted to the Sacred Congregation of the Council; and again, it was decided that the judge would proceed with the hearing, in the absence of the absent party, to hear the witnesses presented by the woman. The Count, or his advocate L., repeatedly protested; but, notwithstanding, the court first summoned and examined Aloysia's mother, the Duchess of Malakoff, who was about to leave Paris, and subsequently, on the days of July 13, 18, 24, and 25, questioned several of the witnesses presented by the plaintiff. An examination was then conducted by three physicians, Desormeaux, Bailly, and Brouardel, on August 8th, in a private hospital where women's illnesses are treated, and which is directed by the nuns of the Hospital of Saint Augustine at Meaux.

[*Latin ed. p. 566*]

566. The woman was subjected to an examination by tepid water and sim-

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ple baths for three quarters of an hour, and then the doctors examined her together, with a nun appointed for that purpose present. After the examination, each one, under oath, recorded their opinion in writing, and each, with the signs according to their method, gave a unanimous judgment regarding the woman's integrity and the consummation of the marriage. If any irregularity was found in this process of examination, the Archbishop in his letters of November 17, 1885, stated this in her defense. First, "the petitioner, hoping that the cause would be brought to a conclusion in a short time, and fearing that, through the machinations of her husband, a subsequent examination would be more difficult for her, petitioned this court to have her examined as soon as possible by the most skilled men in the art of medicine, which the Tribunal could not refuse." And after describing the place chosen for the examination, he continues: "Indeed, it is quite impossible for us to carry out the instructions of the Sacred Congregation according to which the judge himself, along with the other members of the tribunal, must go to the house where the examination is to be held; therefore, we are forced to summon the requested experts to the court, so that before the tribunal they may testify about the examination they have performed. Meanwhile, however, so that time is not wasted, we require them to immediately submit their testimony, under oath and signed by their own hand, which will serve as a basis for further questioning and oral depositions." Therefore, such an oral examination and discussion with the doctors should have been held; but, as the Reverend Richard of the Sacred Congregation reported, "either because of the illness of the Reverend official president, or because of the absence of various members of the tribunal – for it was then the autumn holidays – or for other reasons, this could not be done. But once the examination was postponed, it happened that it was prolonged for a longer time, so that it could only be ordered for execution the following year, by a special decree of the Archbishop, as will be said below. In the meantime, Count Zamóyski persevered in his obstinacy, and with various appeals and insinuations, which..."

[*Latin ed. p. 567*]

PARIS. The Reverend Archbishop and his Reverend coadjutor, Richard, were attempting to expedite the proceedings. A significant part of the delay was due to the lawyer, L., who, as the Archbishop stated, seemed more inclined to study new difficulties through subtle legal maneuvers than to bring forth justice and the good of the case. However, in the year 1886, after the Sacred Congregation of the Holy Office had issued instructions to the Reverend Archbishop of Paris, ordering that the opposing witnesses, the Zamoyski family, be heard, the judge informed the lawyer that the proceedings would resume according to the instructions, and that the list of witnesses proposed by the woman should be submitted to him. Furthermore, he was instructed to freely communicate his observations,

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which, without any impediment, would be considered. Moreover, the Count was warned to abandon the malicious prejudices he held against the Church, and not to employ the lawyer, L., for the reasons previously explained, which had been approved by the Sacred Congregation. In response to this, the Count offered no reply; therefore, on February 13th and the following days, the Court summoned and heard several more witnesses who remained. He had designated two witnesses over the age of twenty, Aloysia, who spoke the best of the woman; but they had differing opinions regarding the man. At the same time, the Court instructed the Archbishop of Vienna to hear the Count Zamoyski and his witnesses, exercising delegated authority. However, the aforementioned Count declined the delegated hearing, citing, through his lawyer, various pretexts against the proceedings in the Parisian Court, and mentioning that he had appealed to the Holy See. After the matter was brought before the Sacred Congregation, on March 29th, 1886, a decree was issued to the Reverend Archbishop of Paris, stating: "that he should bring the proceedings to a conclusion, following the instructions transmitted, delegating the Court of Vienna to prepare the records concerning the Count." Therefore, the Court of Vienna was delegated again, the aforementioned Count was summoned again, and he was summoned a third time; but he never appeared.

[*Latin ed. p. 568*]

568. PARISIEN. He yielded, perhaps distracted by other concerns. At this time, he arranged for the printing of a book of his *Memorabilia*, and he imprudently made public intimate letters from his wife; consequently, the Austrian authorities subjected the book to censorship and partially prohibited it. Nor was this enough; for it also happened that the Count of Paris arrived, and, with sudden violence, ordered two of the woman's witnesses, Masson and Duruy, to be seized and beaten with rods. Amidst these acts of the Count's defiance, the Most Reverend [Cardinal] reported the matter, and, by order of the Most Reverend, a final and peremptory deadline of forty days was set for the 15th of November, 1886, for the Count to appear before the court of Vienna, or before a delegate appointed by the court of Vienna. At this very time, on the 12th of November, 1886, the examination of the physicians who had examined the woman was finally held. Because of the omission that had been made, a report was made to the Archbishop, who decreed that what had been neglected until then should be immediately carried out, "so that, as far as possible, the instructions of the Holy Congregation may be observed." Furthermore, in the examination, as before in the depositions, each physician again asserted the integrity of the hymen and other supporting evidence, from which they argued and defended the absence of carnal perfection and the woman's virginity. Meanwhile, the Count, peremptorily summoned by order of the Sacred Congregation, finally appeared, and presented his own account;

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he also proposed thirty witnesses, but the judge refused to hear them all, because "the majority of them reside in distant lands, and their testimony certainly does not contribute to the clarification of this case, and because the hearing of two witnesses has already taken more than six months." However, the witnesses who were heard testified in unanimous agreement regarding the Count's honesty and piety, and they also affirmed that they believed what the Count had stated. The Count also wished for a medical examination of his own person; and three physicians, Albert, Reder, and Kundrat, were delegated for that purpose; who, with one voice, testified in court: "There are absolutely no signs of impotence in Count John Zamoyski." But, he added,

[*Latin ed. p. 569*]

PART V. 569. Reder: It is possible that, during or for a period of the marriage, an impotence relative to his wife may occur. When questioned by the judge, at the request of the woman's advocate, whether, despite the absence of signs of impotence, some other cause might prevent the consummation of the marriage, Reder replied: "Indeed, it is possible, and it happens not infrequently." Albert: "The question can be answered affirmatively, and indeed, from numerous cases experienced." But Kundrat stated that the possibility certainly exists; but if the spouses, living together amicably and with good will, approach the act of marriage, such impediments can almost always be removed.

SYNOPTIC DISCUSSION. DEFENSE OF THE WOMAN. The woman's advocate, having presented the history of the case in detail, and having described it in two sections, related to the causes inherent in the matter, directs his argument as follows: 1. Concerning the lack of consummation; 2. Concerning the causes for a dispensation. With regard to the lack of consummation, he first states that it was proven by the confession of the husband. According to what was asserted by the leader Pelissier, he said to the Apostolic Nuncio of Paris: "If the marriage has not been consummated, the cause was the bad constitution of the woman, which presented an obstacle to consummation." Indeed, the priest "Witkowski, superior of the priests of La Résurrection, whom the count consulted in his difficulties," related. Furthermore, another cause, although changed, which is the woman's resistance to the marriage, also contributed to the lack of consummation, as testified by the prelate Koziejowski, whose testimony the count himself imprudently inserted and disseminated in his book *Memorabilia*; and which he substantially affirmed in the judicial examination. Moreover, the advocate observes, if the count retained, for four months after the wedding, or at least, as he stated in court, announced to many, that the marriage was

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not consummated for this or that reason, which...

[*Latin ed. p. 570*]

570. The Parisian [witness] states that the marriage remained unconsummated; now, everyone understands how important it is that he should make another deposition, in which he declares that he knows what it means to consummate a marriage, and that he consummated it on the second day of marriage, indeed, that, during the first year, he consummated it at least four times each week. Furthermore, although, according to his testimony, there were more frequent congresses at the beginning, nevertheless it happened that the conjugal union was never completed; what, then, should be thought of the rest of the time, in which the congresses were less frequent, is easily understood. Moreover, the advocate believes that the resistance of the woman, to whom the husband often appealed, should be emphasized among the falsehoods, referring to what the husband himself confesses in other parts of the process and in his book, namely, "my wife was usually content," and elsewhere, "nothing disturbed our joys; and it happened that she herself asked to spend the night with me." And among the falsehoods, it should also be emphasized what he himself testified in Vienna, namely, that during the first months of marriage, he consummated the marriage four or five times a week. This assertion, like the woman's resistance for the aforementioned reason, seems to contradict those things which the husband himself presented at another time, when there was no suspicion. Therefore, they seem to be of little importance. Even more so, because they are condemned by another argument of great importance. Indeed, in the letters, in which Aloysia announced the separation to her husband, which letters the husband himself published in his book, when the woman addressed the husband in this way: "We have agreed to break the marriage, which you, as well as I, have clearly known was not consummated," the husband did not deny the fact, but rather implicitly confirmed it, writing among other things: "I will return to you seven times, if you wish." But the advocate notes that all of these things pertain to moral certainty; but what follows pertains to physical truth. He recalls the testimony given by men, whom the judge calls "men of explored science and probity," from which...

[*Latin ed. p. 571*]

PARIS. 571. There is concurring testimony regarding the integrity of the woman and the lack of consummation of the marriage. The advocate states that, if the physicians themselves, and not midwives, examined the woman's body, this occurred because, in many regions, and especially in Gallia, in the Austrian territories, and often even today in Italia, this practice prevailed, which the Sacred Congregation did not disapprove. The advocate further argues that the absence of the hymen and of myrtiform caruncles, or folds, is a certain sign of virginity and the lack

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of consummation of marriage, citing the authority of several physicians, among whom are Barzellotti, *med. leg.* § 87, Zacchias, and, from more recent sources, Casper. To the objection that experts can be mistaken and that the indicated signs may sometimes be deceptive, the advocate responds with the words of the physician Fodere, *med.* leg., chapter 4, where he refutes those who, by manipulating things, can reject even the most certain proofs, which nature itself has provided to bring the matter to light, and he also responds with Coscio, *De separ.* th. I. 3, chapter 2, that "we have no infallible proofs, not even public documents, since they can be false, and as such, they are sometimes proven to be false. But those which are presented as legitimate proofs in law, must be considered as true in judgment."

Given these circumstances, the advocate overlooks the husband's frightening excuses regarding the woman's resistance, or regarding a defect in her body, which he considers a cause for impotence. He recalls what Aloysia testified, which the husband did not deny, but rather, at a time when he was not suspected, openly confessed, and which several domestic witnesses also asserted, namely, that Aloysia was often willing and eager, and that she often asked the husband to approach her; and that if she resisted, it only happened when he insisted, so that the woman would perform acts contrary to nature upon the husband himself.

To the objection that Aloysia, shortly after the marriage, sometimes believed herself to be pregnant, the advocate responds that...

[*Latin ed. p. 572*]

572. The Parisian [clergyman] stated that the lack of perfect knowledge of the situation led to suspicions concerning the girl; but by conversing with Maria Beline, and another woman, he quickly discovered the error. Therefore, retaining the impediment to the consummation of the marriage, the advocate proceeded to present the grounds for a dispensation, which he based on the husband's impotence, at least relative, and on the discord of affections and the impossibility of conjugal intercourse. And concerning impotence, Ursaya Discept, eccles., vol. 3, part. 2, disputation 21, argues with Pignatelli, that "from the mere probability of impotence, inferred from the cohabitation of the spouses for five months..., the Pontiff may be more inclined to grant a dispensation." But the Count himself, in his book *Memorabilium*, thus describes the situation: "In the first months of our marriage, terrified by the condition of life that I foresaw, and to which my wife was subjecting me, I considered requesting from the Church a solution to this grave impediment, which seemed almost certainly to preclude the possibility of offspring. However, the confession of the wife provides full proof of this, according to *Consci*, book 1, chapter 16, paragraph 56. Furthermore, there are the testimonies of the woman, in which, describing the husband's vile attempts, she graphically depicts the husband's

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impotence, at least relative. But above all, what proves the matter is the four years of cohabitation. Although the Count Zamoyski endeavored to defend himself with the judgment of the Viennese physicians, the advocate pointed out that these experts had previously admitted that, despite the husband's current state of *potentiae*, he may have been incapable of intercourse previously. Indeed, citing the authority of Zacchia, Barzellotti, and others, the advocate argued that it can happen that, although someone is externally well-formed and appears to be virile, he may nevertheless be deficient in conjunction due to an internal defect or nervousness, or some other unknown cause. But whatever may be the case, since the matter of the husband's impotence, at least relative, seems to be sufficiently proven by the cohabitation...

[*Latin ed. p. 573*]

PARISIAN. 573. This situation, which often arises even with the husband present, is a matter of the woman's own initiative. Indeed, according to Urlava I, cited, and De Luca, *Disputationes de Matrimonio*, n. 9, a dispensation is "properly and strictly not granted; but rather, it is a prudential administration of justice." This is even more so when a separation of affections exists, in which case, according to De Luca, cited, and Corradus, *Praecipuorum Dispensationum*, I, 8, cap. 7; Coscius, *Liber de Matrimonio*, 1, cap. 18, and others, a dispensation should be granted. The existence of a separation of affections is first demonstrated by the husband, almost as a matter of principle: for, when the husband is inactive in his marital duties, a lack of affection, quarrels, and finally even aversion and hatred, follow according to the law of nature. Not only does the wife suffer, who feels her marriage frustrated; but also the husband, contemplating his own rejection, detests his condition, and seeks to alleviate his distress, and even takes revenge, especially if, as in this case, he is easily provoked to anger and violence. Therefore, it is not surprising that the woman in this case has suffered vexations and other things; indeed, the husband himself notes that this confirms and further demonstrates the husband's impotence and the lack of consummation. Nor can there be any doubt about the vexations and injuries: for not only does the wife reproach her husband for them in the letters often mentioned from February 9, 1885; but the husband himself confesses to them in a letter to his father-in-law: "I have acted brutally towards your daughter and others"; and to his wife: "I accuse myself and I condemn myself." Indeed, in his book *Memorabilia*, he speaks of his anger, and that he had not always controlled the boiling of his blood, not once, but several times. Nor does he deny, but rather he mentions two cases in which he had struck and pulled his wife by the hair. To this are added the testimonies of witnesses, often very serious, not of one or the other, but of many, of those who had seen or heard the harshness, of those who had seen the effects of the vexations, Aloysia's pallor, the bruises from the

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blows, and other things. Thus, Margaret Masson, a close friend of Aloysia. Nor are there others, who in addition often describe particular events.

[*Latin ed. p. 574*]

574. PARIS. And these things occurred at a time when they were living together; afterwards, he not only mocked his wife, saying she was like a beast in the *Memorabilia*, but, without shame, he revealed all her intimate matters; he not only denounced Aloysia's mother as a new Messalina, and declared her unworthy of a husband, but he also offended as many as he could of Aloysia's friends, and proclaimed that she was corrupted by unnatural vices and lacked sound mind; but, beyond all these things, he even added that he once attempted to abduct her and commit her to the care of attendants in an asylum. Given these circumstances, it is no wonder that the unfortunate woman has long felt fear and horror regarding her husband, and that she now confesses before the judge of Paris: "I am so terrified by his very presence that I would prefer all extremes to the obligation of living with him." These words, freely spoken in court, as well as other similar ones, contradict the assertion made by the husband and his lawyer, L., namely, that the girl loves her husband and should be separated from him because he is the guardian of his mother. Finally, in response to an objection drawn from the most diligent letters which Aloysia was accustomed to send to her husband, the advocate says: "It is not only those letters which the husband has produced that Aloysia wrote, but also others, and that these were not always benevolent, but sometimes severe; and if she did not more frequently reproach her husband, and if, until the very end, she gave him all signs of affection, it was because she feared that he would unleash his anger, and in order to appease his violent nature."

OBSERVATIONS OF SAINT VINCENT, THE ACCUSER. On the other hand, the defender of the marriage, by his office, after a long narration of the facts and after producing fragments of several letters from Aloysia, seeks to demonstrate that her relationship with John was harmonious and benevolent; and that if there were ever any disagreements, they should be attributed to the woman's reluctance and resistance, who did not wish to conceive a child, or to her unfortunate friendships with Masson and others, or to other causes; thus, he divides his speech into three parts, in which...

[*Latin ed. p. 575*]

PARISIAN. 575. At the outset, the woman argues that the attempt to prove the invalidity of the marriage is futile, based on the testimony of experts. Indeed, the Instruction of the Sacred Office of the year 1840, which ought to be the supreme rule for these proceedings, states in § I: "The judge shall prescribe a term to both spouses for presenting the opinions of physicians and surgeons, indicating their confidence and doubts regarding the examination of each spouse; and from those presented by the parties,

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five shall be selected in which the parties agree; if this is not possible, those who are not reasonably suspected by the parties shall be appointed by the judge." The Instruction does not leave the choice of experts entirely to the parties, for the experts are very much like arbitrators, whose judgment the parties should readily accept, and almost implicitly consent to; *Rota coram Olivario, decision 256, n. 12, and coram Molines, decision 1013, n. 4*. It is not permissible for the judge to choose the experts unless the parties are present and duly summoned; *Sánchez De matr., lib. 7, disp. 113, n. 14*. This is because they may refuse, alleging no other reason than suspicion. Therefore, it is stipulated that the report of the experts is invalid if the judge appoints them without the parties being summoned; *Ridolphinus, prax. recent, part. 1, cap. 8, n. 128*. The Rota considered the omission of the summons to be an incurable defect, *decision 320, n. 6, part. 14, Recent*. However, in this case, three physicians who examined the woman were not proposed by the parties, nor were they accepted by them, at least not by both, but were unexpectedly and of their own accord appointed by the Court. Indeed, Zamoyski, before the judge, immediately issued a protest against these experts and their examination. To the objection that the judge acted uselessly by setting a term for the presentation of the experts' report, the defender responds that the judge was obliged to ascertain the contumacy of the husband, and after ascertaining it, to communicate the report of the experts to the husband by order; which would not have been long or difficult to execute; moreover, Zamoyski was in Paris at the time of the examination; and furthermore, if the husband was contumacious, it was because he had been told.

[*Latin ed. p. 576*]

576. The Parisian [advocate] maintained that L. should not be admitted as an expert witness in the trial, and that the count himself should be present. This was because the case concerned marital matters. This seemed to be an unreasonable demand, and therefore he appealed. Furthermore, it was noted that the doctors had not appeared to take an oath before their examination; in their written statements, without invoking the name of God, they presented their expertise; and finally, the following year, they were dismissed from the trial. When asked to state the truth under oath, only one of them swore, while the other two simply responded: "Indeed." Moreover, according to law 20 of the Civil Code, book 14, title 21, confirmed for the purpose of marital cases by the instruction of the Sacred Roman Universal Inquisition of June 20, 1883 (1), it is prescribed that the oath should precede, not follow, the presentation of expert testimony. Furthermore, St. Alphonsus, in *Theologia Moralis*, I, 3, chapter 2, number 136, and the Sacred Rota, in decisions 26, number 42 and 49, declare that an oath is insufficient if the name of God is not explicitly or implicitly invoked; "unless it is preceded by an inquiry about the oath; because in

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that case, through the preceding inquiry, the oath is determined to be a true oath." Indeed, testimonies that are not sworn, such as those of experts, have no legal validity. The defender noted that the examination was not to be performed by the doctors, but by midwives; nor does it matter that the doctors are more skilled than women; for here the matter at hand is to establish the fact of integrity, not the aptitude for procreation. Furthermore, the other judgment, which is more difficult for doctors, reserves the right to the doctors "because the gravity and necessity of the matter outweigh natural propriety," as noted by Sánchez, cited, in his *Disputationes*, 113, number 21; whereas the other judgment, which is easier to ascertain, and therefore, for the sake of propriety, was to be reserved for the midwives, as the instruction indicates. Moreover, the same instruction stipulates that the midwives should examine the woman separately, and should be questioned by the judge immediately before they are allowed to speak with others. In the aforementioned instruction, this was related in Volume XVIII, page 344.

[*Latin ed. p. 577*]

PARIS. A gathering of physicians conducted an examination; and furthermore, they were not questioned immediately, nor after a day, nor after a short time, but after a year and more. The defender believes that all of this is sufficient and more than sufficient to reject the argument of consummation, which is presented from the woman's side; but to further elaborate, he adds another point, where he speaks of the signs of consummation. And here, he first brings forward the testimony of experts from Vienna, which, with regard to the legal form, is considered perfect, and with regard to the substance, decisive, in defining the virile potency. He then states that the woman's advocates, before the Sacred Congregation, as well as her procurator in the process at Vienna, since they could not prove the actual potency of Zamoyski, appeal to a relative or past potency, and they can request that experts be questioned about it, and when these same experts admit the possibility of such a potency, despite the actual condition, they present the words of the physicians prominently, and they praise them. But the defender opposes this with an *argumentum ad hominem*. For he says that, if the potency of the man can be called into question, despite the regular conformation of the genital organs, it will also be possible to doubt the consummation of the marriage, even if the woman exhibits all the signs of physical virginity. As Zacharias teaches in book 4, title 2, question 1, and as Barzellotti in the medical texts, book 4, chapter 4, section 43, with these signs present, it is possible that the woman has been violated and the marriage consummated. But if it is to be judged according to ordinary circumstances, and with the signs of virginity present, the woman must be considered intact; and this rule will also be observed with regard to the potency of the husband, and he must be considered capable. This seems

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to be even more strongly held, considering how uncertain Aloysia was in affirming the husband's impotence. For she says: "I cannot answer this question; only my husband remarked that I was too clumsy... I am at least sure that with me, the thing was impossible." Acts, Volume XX, page 39.

[*Latin ed. p. 578*]

578. PARISIEN. Moreover, or even more so because there are more indications that suggest that Aloysia has indeed resisted, he, the defender, presents a fragment of a letter, written by a friend to Aloysia, in which certain obscure words are uttered concerning the resistance to the completion of the act; and he recalls the words of the chambermaid, Iosepha Mayr, a witness brought in by a.Zamoyski, who stated: "From the mouth of the Countess herself, I understood that she did not wish to conceive a child." And he notes that the word "Countess" and not "Count" is recorded in the documents, contrary to what the opposing side claims. He then accumulates several passages from Aloysia's letters to Zamoyski in which she calls him back, addressing him with the sweetest words, and anticipates his return. He observes that the woman sometimes doubted the possibility of conceiving a child; and that this doubt should not be considered to have arisen from a lack of knowledge of the conjugal act, since Aloysia, still a sixteen-year-old girl, held and signed with her own name a book entitled *Lettres persanes* by Montesquieu. Finally, he appeals to the explicit confession of the husband, which, according to chapter i of *Be fri. et male f.*, should be given the greatest weight. Regarding the objection that could be raised based on the testimony of the priest Withowski, he responds that, in the first place, his testimony could be rejected because it was heard without the husband's knowledge and in his absence; but furthermore, his assertion appears false, since the husband states that he spoke with no one else about the consummation of the marriage, except for the prelate Koziejowski. But what the Count asserted with this prelate of such importance does not seem to be the case, because it is alleged that the Count, being doubtful, said certain things, and he maintains this. Nor can a better omen be objected to, since it is established that the husband wrote to the wife when he made known his intention to appeal to the Holy See, so that the unhappy marriage might be dissolved. For this very intention was discouraged by the prelate Koziejowski; and then, as he recounts in his book *Memorabilium*, the husband found his wife to be more amenable, indeed, "pendant un jours nous..."

[*Latin ed. p. 579*]

PARISIAN. "We could believe our trials to be finished," he writes. And if he did not return her to her mother, the letters teach that this is not to be attributed to the man, but to the wife herself, as is evident from the letters which Count Zamoyski wrote to his wife, announcing her separation; in

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which he says: "This time, I will make you a mother, provided that you wish it." Finally, the defender, descending to the testimonies of the witnesses, observes that if none of the witnesses dared to accuse Aloysia, except only the servant, Iosepha Mayr, and her husband (witnesses brought by the Count), who nevertheless could only call her a single woman or one unworthy of her husband; likewise, none of the Viennese witnesses, who knew the Count well, could reproach him; but on the contrary, they testified that he excelled in probity and religion, that he had repeatedly requested books for the cultivation of piety, that he had ordered Masses to be said for himself, and that he had shown other excellent qualities. With these things established, the defender notes the contrary things that the Parisian witnesses said. Indeed, the Parisian witnesses asserted that the Countess had said true things, without knowing what the Countess actually said; for it was not read to them what Aloysia had previously testified; hence, in general, they gave their testimony regarding the veracity of the actress. On the other hand, the seventh article of the husband's defense was completely rejected, according to the instructions of the Holy Council. Secondly, the Parisian witnesses could be considered suspicious: for three of them, Maria Beline, Clotildes Vibout, and Felix Robin, were servants of the Countess at the time of their testimony; Peter Paviot confesses that he was driven out of the house by the Count; finally, others, such as the spouses Masson, are greatly involved in the present cause. On the other hand, the Viennese witnesses, since they were admitted by the opposing party through their advocate, and because they were chosen by the judge himself from among the witnesses proposed by the Count, were to be considered of greater weight, without any exception. After these things, the defender finally came to the last part of his speech, in which he speaks of the reasons for granting a dispensation, which he nevertheless believes to be lacking. The first and most important reason for granting a dispensation would be the impotence of the man; but, according to the defender's assertion and as stated above, this is not the case.

[*Latin ed. p. 580*]

580. PARISIEN. Another reason for the dispensation might be found in the mutual aversion of the spouses; but even this is defended by the advocate for the marriage, who frequently refers to the letters of Aloysia to the Count, which were continuously sent and were most benevolent, even until the last days of the marriage. Furthermore, the advocate denies that the Count ever intended, after the separation, to have his wife committed to a house for the insane, for it is certain that he attempted to abduct her, accompanied by two women from the asylum, and to transport her to Galicz. Therefore, with these premises established, the question to be considered was whether, in this case, one should consult the Most Holy [See] regarding a dispensation from a valid but unconsummated marriage.

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RESOLUTION. The Sacred Congregation, after deliberation on February 1, 1888, decided to respond: Affirmative.

(1) From the Sacred Congregation for Bishops and Regular Canons, concerning exemptions and parochial rights regarding funerals.

February 24, 1888. Paschalis la Vacca, a priest of the Oratory of Saint Philip in the Royal City of Jaca, who was born in the year 1760, was assigned to the place called Giarre, then in the Diocese of Messina; COMPENDIUM OF THE FACTS.

(1) It should be noted that the Apostolic See has tolerated, even in this matter of marriage, as in some other cases, that the integrity of the woman be examined by physicians, rather than by midwives.

[*Latin ed. p. 581*]

He resided there for 581 days, so that he might instruct the minds of the young in piety and virtue, and imbue them with good arts. But a few years later, when he wished to return to his homeland, the inhabitants, in order to dissuade him from his purpose, decided to erect, at their own expense, an oratory in the place of Giarre, not dissimilar to that which existed in Acireale. This oratory was indeed built under the title of the Most Holy Virgin, Mother of God, and of Saint Philip Neri. Subsequently, in the year 1798, several houses were purchased for the aforementioned oratory by the Rector, or Prefect, La Spina, with the understanding that the Father, and administrator, would stipulate and receive, for himself and his successors, all and singular rights, and all actions, accounts, and causes, both real and personal. And this was not enough: the priests residing in the aforementioned oratory, in the year 1861, presented a petition, and obtained from the Most Blessed Memory of Pope Pius IX, by a Brief dated April 19th of the same year, that the same house should be approved as part of the oratory of Saint Philip Neri, with the same indulgences and privileges with which houses of oratories commonly enjoy, by Apostolic concession. Consequently, it happened that, due to the laws subversive of the Italian government, the aforementioned oratory was suppressed, and its property was assigned to the public domain. Regarding the right of burying bodies, questions arose between the parish priest and the priests of the aforementioned Congregation of Saint Philip. Since the priests of the Congregation of Saint Philip affirm that this church, as belonging to the Oratorians founded by Saint Philip Neri, is and always has been a regular church, and entirely exempt from the jurisdiction of the parish priest. Conversely, the parish priest maintains that the aforementioned priests do not belong to the Congregation of Saint Philip, but are simple secular priests devoted to the education of youth; and that the church, existing within the limits of his parish, is dependent on his parish church, and therefore, he

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has the right to bury the bodies of the parishioners.

[*Latin ed. p. 582*]

S82. Concerning [bodies] which are brought to the aforementioned Church; then, to enter the Church of Saint Mary, holding a cross aloft and wearing a surplice, and to perform the funeral rites there; and finally, after the funeral rites have been completed, to have the right to accompany the bodies from that Church to the cemetery. When, therefore, certain questions arose, in these recent times, on the occasion of a funeral, the parish priest of S. C., Bishop and Royal [official], came forward, proposing to resolve some doubts. While the Bishop's decision on this matter was awaited, the same parish priest presented a new petition to S. H. C., complaining against the priest of Tropea, the chaplain of the church under lay patronage, dedicated to Saint Mary of Carmel, because he himself, within the aforementioned Church, which is subject to the parish, received the bodies of his parishioners, and without the consent or intervention of the parish priest, performed the funerals, with the bodies present; and because other priests, excluding the parish priest, accompanied the bodies to the cemetery with a cross, and there performed the religious burial rites. After these matters were explained, the parish priest requested that S. H. C. prevent the chaplain from performing funerals, thereby infringing on the parochial rights. Disputatio Syiioptica. RIGHTS OF THE PARISH PRIEST. Regarding the first question, the parish priest stated that, according to the regulations, the right belongs to him to perform the funeral rites in his churches, and to accompany the bodies with his own cross to the cemetery. Furthermore, when it was investigated that the Church of the Most Holy Virgin, Immaculate, is located within the boundaries of his parish, and is nothing other than a public oratory dependent on the parish church, and is neither a regular church, nor has ever been a regular church: it follows spontaneously that the chaplain of the Church of the Most Holy Virgin cannot perform funeral rites in the aforementioned church, nor can he accompany the bodies with his own cross to the cemetery. That the church is not, and never has been, a regular church, can be deduced both from the fact that there has never been a religious house in the place called Giurre, and from the fact that those who belonged to the same church...

[*Latin ed. p. 583*]

SECTION 83. They served, and were secular priests devoted to the instruction of young people. These priests were called Philippi, not because they were truly such, but it happened, he says, according to common opinion, because the Oratory of St. Philip was nearby, and they served the same Church, celebrating Mass daily there and performing functions constantly. It is also relevant that the actual Government considered the Church to be "regular," and therefore suppressed it, adding its goods to the treasury. He

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adds that this was done because the Government followed public opinion, according to which the secular priests were called Philippi. This is so true that the priests themselves, in order to recover the suppressed Church and the confiscated goods, must prove that they are not Philippi, nor that the Church belongs to a religious Congregation. Therefore, since the priests serving the Church of the Most Holy Virgin Immaculate, according to their own confession, are not Philippi, nor does the Church belong to a religious Congregation, the parish priest concludes that it does not belong to the aforementioned chaplain to have the right to perform the funeral rites of the deceased in that church, and to carry the bodies of the deceased with their own cross to the cemetery. Moreover, it would be beneficial for the same chaplain to perform such funerals by order of the parishioners, who choose the Church of St. Mary Immaculate instead of their own parish church, provided that he claims to have the rights of a prelate; for parishioners cannot injure the rights of their parish priest without impunity. Among the parochial rights, the right to bury the dead must certainly be included; as Barbosa states in *Tractatus de Officiis et Potestate Parochi*, part III, chapter XXVI, paragraph I, with common consent. Furthermore, the parishioners would injure the rights of their parish priest without impunity if, without being buried in the aforementioned church, nor having the burial of their ancestors there, nor having acquired a legitimate title to burial there, they granted the chaplain of the same church the faculty to perform funeral rites over bodies to be buried in the common cemetery, against the will of the parish priest.

[*Latin ed. p. 584*]

584. Hence, it follows that the burden of restoring all the benefits to the parish priest should fall upon the chaplain, benefits which he has unjustly received from improperly performed funerals. These things, which have been said concerning the chaplain of the church of the Most Holy Virgin, conceived without sin, should, *a fortiori*, be said concerning the priest of Tropea, chaplain of the public oratory under the title of Saint Mary of Carmel; especially because, as the Bishop reports, this oratory, having been built after the public cemeteries were in use, does not enjoy the right of burial. Therefore, it is contrary to right that the parishioners should celebrate funerals in that oratory over the bodies of their deceased, and that the chaplain should accept and perform such a celebration over the present bodies, and that other priests, excluding the parish priest, should accompany the bodies to the cemetery with a cross, and there perform the religious function of burial. Indeed, it is urgent to observe that all of these things pertain strictly to parochial rights, which the chaplain cannot usurp from the parish priest, except in cases expressly excepted by law, which do not occur in the present case. Certainly, parochial rights, according to Cardinal de Luca, *Discipline* 31, on Parishes, number 8, consist ”in the right

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of demanding and receiving" offerings, and also in the obligation of the parishioners to receive the sacrament of the Eucharist on Easter Day, and other sacraments usually administered to the dying, and also in the right of burying and interring, whenever the deceased does not choose burial in another church, or does not have a family burial place; in which case, the fourth part, or the canonical portion, is due to the parish priest. Regarding this matter, it has been observed that the method of resolving the dispute proposed by the Bishop cannot be accepted, namely, that the chaplain of the oratory should perform all the functions concerning the bodies within the oratory, while the parish priest should complete the functions outside the oratory. For such a method, by which one has the right to bury and the other the right to inter, is contrary to the principle of the inseparability of the right of burial from the right of internment, and it breaks the unity of the funeral office, which begins in the church and is completed in the cemetery, as can be seen in the Acts of the Holy See, volume XV, page 297.

[*Latin ed. p. 585*]

585. It is, however, wrongly asserted that the reason for the complaints of the chaplains regarding the conduct of their duties, and those of other priests, is due to the incredible avarice of the parish priest, to such an extent that the parishioners, rather than paying the arbitrary and exorbitant taxes imposed by him, prefer either to bury the bodies of their deceased without any religious ceremony, or to take them to the church of St. Mary of Carmel, so that funeral services may be performed there. This offense, however, is addressed by considering that, even if the complaints of the parishioners regarding the avarice of the parish priest are true and well-founded, this does not transfer the certain and established parochial right to the chaplain and other priests. In this matter, while he may abuse his right, they cannot usurp it, nor can the parishioners transfer it to others at their own discretion. Therefore, in order to curb the scandalous avarice of the parish priest, if it exists, other means must be employed, to be determined by the higher ecclesiastical authority. Hence, it is the duty of the parishioners to appeal to the Bishop, who, after examining the matter and discovering the truth of the complaints, should restrain the avarice of the parish priest and compel him to observe the diocesan statutes, and, insofar as the statutes do not apply to each case, to ensure that just statutes or authentic interpretations of the statutes are enacted, even invoking, if necessary, the authority of the Holy See.

WHAT IS FAVORABLE TO THE RECTOR OF THE CHURCH OF THE BLESSED VIRGIN MARY OF PURITY, ST. MARY OF CARMEL. On the contrary, the rector of the church of the Blessed Virgin Mary of Purity demonstrates with all his might that he has the right not only to perform funeral services over the bodies of the deceased in his church, but also, after they have been performed, to accompany the bodies with his own

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cross to the cemetery. To prove this as a right that has been established, he states that every Christian has the power to choose to be buried in any church, provided that he has the right to be buried there. This right is enjoyed by cathedral churches and parochial churches, and by those that have obtained it by custom or privilege. Devoti, Dist. Can. Lib. II Inst. n. 94.

[*Latin ed. p. 586*]

58. Furthermore, he asserts that the chapel of the place, commonly called Giarre, could not possibly have been endowed with such a privilege, since it is located outside of any reasonable doubt. Pope Pius IX, by virtue of a Bull issued in the year 1861, granted to the aforementioned chapel all exemptions and privileges that other congregations of Saint Philip Neri enjoyed, using these very words: "We decree that the aforementioned house or retreat be approved, as are the other houses of the Oratory of Saint Philip Neri, with only those indulgences and privileges which the houses of the Oratory commonly enjoy by Apostolic concession." Indeed, Pope Gregory XV, to the Fathers of the Oratory existing in Bologna, in addition to the right of burial, also granted complete exemption from any authority, declaring: "We perpetually exempt and free it from all jurisdiction and from any authority and dignity, whether ecclesiastical or secular." These matters, it is stated, were confirmed by the Supreme Pontiff Clement XII in the year 1732, as evidenced by the records of the cemetery of Ripana, dated December 13, 1858, before the Reverend Father De Magno, where these words are read: "There was no longer any right, on the part of the parish priests, to the burial within the church of the Pious Congregation." In addition to the existing civil burial places, the Bull of Gregory XV stated that this right had been granted to the Oratory of Bologna, and then, in the year 1732, extended to the Oratory of Ripana, to which favor was also added the exemption, which was by no means limited to the persons of the Fathers, because the Pope expressly commanded and declared that the congregation, and its church, and the priests, clerics, and other persons and goods, should be immune from all jurisdiction. Furthermore, it is taught that a church which enjoys the right of burial should also enjoy the right of funeral rites and all that proceeds from it, as stated by Samuel De Sepult, Disputation III, chapter 1; Giraldi de pot. Paroch., 3, chapter 21; Passerin, de statu hom., volume 2, question 187, number 191. And this is confirmed by the aforementioned records of Ripana, and by Decree 68, number 2, before Roverella, as well as by the Sacred Congregation of the Council of Sexennia, concerning Parochial Rights, of August 19.

[*Latin ed. p. 587*]

IACEN. 587 sti 1830: "Concerning the right granted for burial, or the right to bury, it is held that all other things that proceed from it are also granted: namely, the solemn procession of the deceased, the celebration

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for the departed, the right to receive funeral emoluments, except for the fourth tithe due to the Parish Priest." Therefore, it is clear from the above that the local church of Giarre enjoys the right to bury, and there can be no doubt that the faithful may choose to be buried there. If the funeral rites must be performed in the church in which the deceased died, it follows that the church of the Fathers of Saint Philip in Giarre, which has the right to bury, also has the right to perform funeral rites. To deny this right would be to deprive the faithful of the freedom to choose burial in those churches that enjoy such a privilege. And this is clearly an unreasonable thing. Nor are such rights to be considered lost simply because burial in the aforementioned church cannot take place due to civil laws concerning cemeteries; indeed, it has been decreed on several occasions by the Holy See that the erection of cemeteries only changes the place of burial materially and physically, but not the right to bury, which in fact remains intact, as stated by the Holy Congregation of Councils on November 26, 1814. The rights of churches and the faithful concerning funerals are not in any way extinguished by the recent establishment of public cemeteries, as stated by the Holy Congregation of Councils on February 16, 1867. Therefore, a church that had the right to bury in its own vaults does not lose that right simply because it does not exercise it in a public cemetery, but rather the place of burial has been changed, which, as repeatedly stated by the Holy Congregation of Councils on May 14, 1824, does not prevent the reception of emoluments and the right to perform funeral rites. Indeed, this right remains intact, even if the Regular Order of Larissa has been suppressed and no members of that Order remain, as taught by the Holy Office of Councils on March 17, 1781. The suppression of the Regular Order cannot be argued to extinguish the right to bury in a sacred place, since the right to bury is a real right.

[*Latin ed. p. 588*]

588. [The coffin] should remain within the church, which serves as a [temporary] burial place. This is to be said even more strongly in the case where the congregation consists of many priests who serve the Church. Nor should the parish priest consider himself burdened if, after the funeral rites have been completed, he is not invited to accompany the body from the church to the public cemetery, for this accompaniment belongs to those who performed the funeral rites, since the accompaniment of the body from the church to the cemetery is nothing other than a continuation of the funeral office. Indeed, once the jurisdiction of the parish priest has ceased, which happens after the body has been carried to the door of the burial ground and sprinkled with holy water, it does not revive (Herdt, *S. Liturg. prax.*, vol. III, no. 227 and following). "The parish priest, to whom the deceased belongs, is to carry the body, to take it from the house, to sprinkle it with holy water, to chant the antiphon *Exultabunt*, and to

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lead the funeral procession" to the door of the burial ground, whether it be a secular or a religious burial ground. The parish priest is obligated to accompany the funeral "to the door of the burial ground." He must stand before its gates, but he cannot recite the customary prayers there; rather, after the sprinkling with holy water, he withdraws (Roman Ritual, Order of Funerals). Baruffaldi, *Commentaria ad Rituale*, etc. From these principles, it follows that the parish priest cannot perform the funeral rites within churches, whether secular or religious, even if the deceased's will dictates that the body should be buried in those churches. Furthermore, it must be the Rector or Chaplain of the burial ground church who accompanies the body from the church to the cemetery, both because this accompaniment is a continuation of the preceding funeral rites, and also because the Sacred Congregation of the Council has repeatedly taught that public cemeteries have taken the place of churches in which bodies were to be buried, as can be seen in numerous other instances, for example, in *Acta Juris tumulandi et funeris* of May 4, 1873. And this teaching of the Sacred Congregation of the Council is in conformity with that which...

[*Latin ed. p. 589*]

Section 589 states that the Sacred Congregation for Bishops and Regulars, particularly in the case of Caven, or Sarnen, through a decree of September 17, 1880, established the norms to be followed in the association with a public cemetery for the burial of bodies, which, according to civil laws, cannot be buried in churches, and it determined that the right to associate with the common cemetery belongs to the churches, so that they may transfer the bodies of the deceased, which have been brought to those churches for burial, provided that this is done without pomp and with due reverence. Therefore, the Sacred Congregation for Rituals, in its decree of September 30, 1614, taught that a crucifix should be carried in funerals, stating: "In funerals, one crucifix must be carried, that of the church to which the body is being taken." And Gardellini, after stating the aforementioned principle, in decree 4468, observes that "there are so many things written and ordered in this collection concerning the fact that only one crucifix should be raised at funerals, that of the burying church, so that, if I were to undertake to demonstrate this, I would burden myself with a useless and reprehensible labor." Therefore, since it is clear from the reasons presented that the Rector of the church of the Immaculate Conception has the right to perform funerals over the bodies of the deceased, and to transfer them to the common cemetery with the customary crucifix; it is easily understood that the Rector of the aforementioned church cannot be condemned to return the emoluments received on account of funerals, because emoluments are the compensation for labor. Therefore, the parish priest's petition, being without any foundation, should be rejected from the very threshold of the court. Regarding the complaints that the parish priest makes against the

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chaplain of the church of St. Mary of Carmel, it has been reported to the Bishop that the church of St. Mary of Carmel is located within the territory of the parish, is under lay patronage, is not annexed to the parish church, and is entirely independent of it. Therefore, it is possible for the chaplain to perform non-parochial functions, independently of the parish priest. And this was defined by the Sacred Congregation for Bishops and Regulars in Rieti on January 13, 1844, in which the question was debated whether a chaplain of a chapel under family patronage.

[*Latin ed. p. 590*]

590. [The matter] concerns Ricci, who was able to perform novenas, triduums, and other functions with the exposition and benediction of the Most Holy Sacrament, and also to celebrate Mass solemnly, independently of the parish priest. And after two questions were proposed, he answered: to the first and second, affirmatively in all respects, according to the form of the Decrees of the City and the World, of the Holy Congregation of Rites, of December 10, 1703. However, the chaplain defends his method of acting, asserting that funeral services over the bodies of the deceased had never been celebrated without the parish priest first being consulted, so that, according to the norms of common law and the Roman Ritual, the bodies might be removed from the house and taken to the church of Saint Mary. And he states that he did this, despite a contrary custom existing in that church, by virtue of which the bodies of the deceased, without the intervention of the parish priest, were secretly and at night, transported away. Finally, he stated that the matter of transporting the bodies from the church to the cemetery is something that does not concern him; and if there is any fault, it should be attributed not to him, but to the parents and relatives of the deceased, who, rather than paying enormous taxes, and those doubled or even tripled for such transport imposed by the parish priest under various pretexts, prefer either to leave their deceased relatives in the ground without religious ceremonies, or to have them transported by other priests, who, in order to avoid scandal, gladly and freely perform this pious work. With these things noted, the following questions were to be resolved:

I. Whether the church of the Oratory of the Most Holy Virgin, Immaculate, is exempt from the jurisdiction of the parish priest, and whether it has the right to perform funeral services over the bodies of the deceased, and to transport them to the cemetery with its own hearse, in such a case. And as to the second part, [the answer is] negative.

II. Whether, and in what amount, the emoluments received by the chaplain on the occasion of funerals, are to be returned in such a case.

III. Whether the church of Saint Mary of Carmel is independent of the lay patronage of the parish priest, and whether it is able to perform the

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aforementioned funeral services in such a case.

[*Latin ed. p. 591*]

I.A.CEN. 59: Concerning the matter of the Episcopal and Royal Congregation, discussed on February 24, 1888, the following wise response was given: Regarding I: Affirmative, concerning those who have chosen burial in that church, or who have acquired the right to burial therein. Regarding II: As provided in the first point. Regarding III: Affirmative, according to the decree of September 10, 1703, concerning the first part. Negative, according to the norm of the same decree, § XX, concerning the second part. FROM WHICH WE GATHER THE FOLLOWING: I. The parish priest must bury his parishioners and all other persons residing within the parish, who have died without a special disposition concerning burial, in his parish church. II. However, those who may have chosen burial elsewhere, or who have a tomb in which their ancestors have been buried from ancient times, are to be excepted. In such a case, the parish priest must provide a fourth [portion] as compensation for the burden he bears in administering the sacraments. III. At funerals, only one cross should be raised, that of the church to which the body is brought. IV. The parish priest cannot enter the churches of regular canons in association with a body, with a stole and a cross raised, nor can he perform the offices and functions there. V. The performance of funeral rites implies a jurisdiction, which cannot be exercised in laity and in churches legitimately exempt. VI. Once the coffin has been placed at the threshold of the church, and the final farewells have been spoken, the parish priest cannot participate in those ministrations which are to be performed afterward concerning the body, because the parish priest's jurisdiction, once terminated, cannot be revived. VII. Therefore, after the funeral, the rector of the church where the funeral took place has the right to have the body taken to the common cemetery, even against the will of the parish priest, because the right to bury cannot be separated from the right to inter. VIII. The rights of churches and the faithful concerning funerals must not, in any way, be considered extinguished by the establishment of public cemeteries. IX. Therefore, a church which had the right to bury in its own tombs does not lose that right by exercising it in a public cemetery, but rather the place has been changed. X. Indeed, the extinction of a regular order cannot be argued to extinguish the right to burial acquired in a sacred place, since the right to burial is real, and the tombs are connected to the temple. XI. Concerning the right of burial, or the right to be buried, it is also to be understood that all other things that proceed from it are also granted; namely, the RESOLUTION.

[*Latin ed. p. 592*]

S92. Concerning the solemn procession for the dead, the celebration of Masses for the departed, and the right to receive funeral offerings,

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because these offerings constitute a corresponding recompense for the labor involved.

XII. In churches under the patronage of lay institutions, non-parochial functions may be celebrated independently of the parish priest, according to the form of the decrees of the Holy Office of the City and the World, dated December 10, 1703.

XIII. Strictly parochial rights consist in the right to decline and receive offerings, as well as in the obligation of parishioners to receive the Sacrament of the Eucharist on Easter Day, and to administer other sacraments customarily given to the dying.

XIV. Parishioners cannot, at their own discretion, infringe upon the rights of their parish priest, among which the right to conduct funerals must be included.

XV. In the church, under the title of the Most Holy Virgin, Mother of God, and Saint Philip Neri, it has been the custom to reside there as a regular community.

SACRED DECREE BY WHICH THREE QUESTIONS REGARDING THE CELEBRATION OF A MASS FOR THE DEPARTED ON THE LAST SUNDAY OF THE COMING MONTH OF SEPTEMBER ARE RESOLVED. By the Most Holy Pope Leo XLI, letters were issued on the solemn day of Easter of the current year, in which it was commanded that, in all patriarchal, metropolitan, and cathedral churches of the Catholic world, a special Mass for the Departed be celebrated on the last Sunday of the coming month of September, with the greatest solemnity possible; and that the same Mass may be celebrated in all other parochial and collegiate churches, and by all priests, provided that the Mass corresponding to the Office of the day is not omitted wherever it is obligatory. The following questions regarding such a mandate of His Holiness were proposed for proper clarification:

I. Has a dispensation, or commutation of the obligation, been granted for both the Mass for the people and for any Mass of the day, so that it cannot in any way be transferred?

II. Are the words "provided that the Mass corresponding to the Office of the day is not omitted, wherever it is obligatory" to be understood only with regard to churches in which the choral Office is celebrated on that day?

III. If a feast day of greater solemnity occurs, e.g., the feast of the patron saint or the dedication of the church, is it sufficient to offer a Mass for the Departed, while observing the rite appropriate to the feast day?

These questions, having been duly considered by the Sacred Congregation of Rites, at the command of the same Most Holy Pope, the Sacred Congregation itself deemed it advisable to respond as follows: Affirmative in all cases.

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These matters, having been reported to the same Most Holy Pope by the undersigned Secretary, His Holiness approved the response of the Sacred Congregation, and has ordered that it be made public by the present Decree.

June 6, 1888.

A. CARD. BIANCHIS.

Prefect.

R. C.

LAURENTIUS SALVATI

Secretary.

[*Latin ed. p. 593*]

893 ENCYCLICAL LETTERS from Our Most Holy Lord Pope Leo XIII, by divine providence, to the Patriarchs, Primates, Archbishops, and Bishops throughout the Catholic world, possessing grace and communion with the Apostolic See, CONCERNING HUMAN LIBERTY. To the Venerable Brothers, the Patriarchs, Primates, Archbishops, and Bishops throughout the Catholic world, possessing grace and communion with the Apostolic See. Leo XIII, Pope. Venerable Brothers, greetings and the Apostolic Blessing. LIBERTY, the most excellent of natural goods, and that which is uniquely proper to rational or volitional natures, confers upon man the dignity of being in control of his own counsel, and of possessing power over his actions. Truly, however, this dignity is of great importance depending on how it is exercised, for just as the greatest good, so too the greatest evil, arises from the use of liberty. It is indeed fitting for man to obey reason, to pursue moral good, and to strive towards his ultimate end. But the same can be turned to all other things, and, pursuing false images of good, it can disturb the proper order and lead to ruin. The Liberator of the human race, Jesus Christ, having restored and increased the dignity of nature, has greatly aided the will of man; and, through the safeguards of His grace, and through the promise of eternal happiness in heaven, He has raised it to better things. And in a similar way, the Catholic Church deserves and will constantly deserve merit for this most excellent natural good, because it is its duty to spread the benefits received through Jesus Christ to all ages. Nevertheless, there are many who would seem to wish to harm the Church concerning human liberty. The cause of this lies in a perverse and most egregious judgment concerning itself. For they either corrupt it in its very intelligence, or they extend it with an opinion that is too broad, so that they contend that it pertains to many things in which, if rightly judged, man cannot be free. We have spoken of this, specifically in the Encyclical

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Letters *Immortale Dei*, concerning modern liberties, distinguishing what is honorable from what is contrary. We have demonstrated...

[*Latin ed. p. 594*]

594 We receive letters, and whatever pertains to those freedoms, whatever is held to be good, is declared to be ancient, as is the truth: and the Church has always been accustomed to approve and receive such things most readily in practice. What is added to this, if the truth is sought, consists in a certain degree of corruption, which excessive turbulent times and the insatiable desire for new things have produced. — But since there are many who are persistent in this opinion, so that they consider those freedoms, even in that which they contain of vice, to be the highest glory of our age and a necessary foundation for the stability of states, so that, if they were removed, they would deny that a perfect government of the republic could be conceived, therefore, it seems that, for the sake of the public good itself, such an argument ought to be treated separately. We pursue moral freedom, whether considered in individual persons or in the state. — However, it is helpful to say something briefly about natural freedom, because, although it is entirely distinct from moral freedom, it is nevertheless the source and principle from which every kind of freedom arises, with its own force and its own spontaneity. Indeed, common sense and the judgment of all recognize this, and it appears in itself that there is a reason why the author of those things which are done by him is to be considered a man. And rightly so: for while other animals are led only by their senses, and acquire what is beneficial to them solely by the impulse of nature, and flee what is contrary, man, in each act of life, has reason as his guide. Reason, which judges that all things, both individually and collectively, that are present in the world, can be, and equally can not be: and, by not decreeing that any of them are necessarily to be taken, gives power and choice to the will to choose what it commands. — But man can judge the contingency, as they call it, of those goods which we have mentioned, because he has a simple, spiritual nature, a participant in thought: and therefore, because it is of this nature, it does not originate from material things, nor does it depend on them for its preservation; but, without anything intervening, it is generated by God, and, transcending the common condition of bodies by a long interval, has its own and proper way of living, its own way of acting; so that, having understood the mutable and necessary reasons of true and good things, it does not see those particular goods as necessarily belonging to it. Therefore, when the minds of men are declared to be separated from all mortal connection, and are endowed with the faculty of thought, natural freedom is firmly established in its foundation. Indeed, just as the human

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mind has a simple, spiritual nature,

[*Latin ed. p. 595*]

LETTERS 595, and no one proclaims freedom, nor asserts it more consistently, than the Catholic Church, which, indeed, has taught both at all times, and defends them as dogma. And not only this: but against those heretics who contradict, and the supporters of false opinions, the Church has taken up the cause of freedom, and has defended this great good of man from destruction. In this regard, the monuments of literature testify, how madly the Manichaeans and others have struggled, and in more recent times, no one is ignorant of how diligently and forcefully, both in the Council of Trent, and afterwards against the followers of Jansenius, the battle was fought for the free will of man, and how at no time, nor in any place, did fatalism prevail. Therefore, as we have said, freedom belongs to those who are partakers of reason or intelligence; and this freedom, if its nature is corrupted, is nothing other than the ability to choose things suitable for a given purpose, so that he who has the ability to choose one thing from many, is the master of his actions. Now, since everything that is taken for the sake of acquiring something has a reason, it has a connection with goodness, which is called useful; and this goodness has a nature that properly moves the appetite, therefore, free will is the proper act of the will, or rather, the will itself, insofar as it has the power of choice in action. But the will is never moved, unless the knowledge of the mind, like a certain flame, has shone forth; that is to say, the good that is desired by the will, is necessarily good insofar as it is known to reason. Even more so, because in all acts of will, judgment always precedes, concerning the truth of goods, and what should be preferred above others. But to judge, it is the province of reason, not of the will, no wise man doubts. Therefore, if freedom is in the will, which by its nature is an appetite obedient to reason, it follows that this freedom, like the will, is directed towards the good, in accordance with reason. Nevertheless, since both faculties are imperfect, it can happen, and often does happen, that the mind proposes to the will something that is not truly good, but has the appearance of goodness, and the will applies itself to it. But just as the very ability to err is a fault, which shows that the mind is not perfect in every respect, so too, to be deceived and to seize what is falsely presented as good, is an indication of free will; just as illness is a certain vice of life, so too, it is a certain vice of freedom. Thus, the will, precisely because it depends on reason, when it desires something that is contrary to right reason, becomes deeply tainted with a certain vice, and perverts freedom. For this reason, God, who is infinitely perfect, and who is supremely intelligent,

[*Latin ed. p. 596*]

596 Letters reveal that the goodness of a thing is such that, by its very

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nature, it cannot will evil; nor can the blessed in heaven, through contemplation of the highest good. As Augustine and others observed against the Pelagians, if it were possible to fail from the good according to nature, and this were the perfection of freedom, then God, Jesus Christ, the Angels, and the blessed, in whom this power exists, would either not be free, or certainly would be less perfect than a man, a traveler and imperfect being. The Angelic Doctor often discusses this matter at length, from which it can be deduced that the ability to sin is not freedom, but servitude. This is subtly expressed in the words of our Lord (1): "He who commits sin is the servant of sin." For everything is that which is proper to it according to its nature. Therefore, when a man is moved by something external, he does not act according to himself, but by the impression of another, which is a servile act. But man, according to his nature, is rational. Therefore, when he is moved according to reason, he is moved by his own motion and acts according to himself: this is freedom. But when he sins, he acts contrary to reason, and then he is moved as if by another, restrained by external limits: and therefore, "he who commits sin is the servant of sin." This was clearly seen by the philosophy of the ancients, and especially by those whose doctrine it is, that no one is free unless he is wise; and they called a man wise who had learned to live constantly according to nature, that is, honorably and with virtue. Therefore, since this is the condition of freedom in man, it is necessary to provide suitable aids and safeguards to direct all his movements towards the good, and to restrain him from evil; otherwise, freedom of the will would do much harm to man. And first of all, the law, which is the norm of actions and omissions, was necessary; for this truly cannot exist in animals that act by necessity, because whatever they do, they do by the impulse of nature, and they cannot follow any other rule from themselves in their actions. But for those who enjoy freedom, it is in their power to act, to not act, and to act in a different way, because they choose what they will, after the judgment of reason, as we have said. By this judgment, not only is it determined what is honest according to nature, and what is dishonorable, but also what is good and what should be done, and what is evil and what should be avoided; for reason prescribes to the will what to seek, and from what to abstain, so that man may sometimes attain his highest end.

(1) John 8:34.

[*Latin ed. p. 597*]

LETTERS §07, concerning the cause for which all things are done. Indeed, this order is called the law of reason. Therefore, the reason why the law is necessary for man, namely, in his very free will, that our wills may not deviate from right reason, is the first cause to be sought, as it were, in the root. And nothing could be said, thought, or conceived that is more perverse and absurd than this: that man, because nature is free, ought therefore

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to be exempt from the law; for if this were so, it would certainly follow that necessity is not compatible with freedom; whereas, on the contrary, it is far truer that man ought to be subject to the law, because he is a free nature. In this way, the law is a guide for man in his actions, and it incites him to do what is right by means of rewards and punishments, and deters him from sin.

Such is the law of nature, which is written and inscribed in the minds of individual men, because it is the very human reason that commands us to do what is right and forbids us to sin. This prescription of human reason cannot have the force of law, except because it is the voice of a higher power and the interpreter of reason, to which our mind and freedom ought to be subject. For the force of law consists in imposing duties and granting rights, and it rests entirely on authority, that is, on true power to establish duties and define rights, as well as to command rewards and punishments; and all of these things clearly cannot be present in a man if he were to give himself as the supreme legislator of his own actions. Therefore, it follows that the law of nature is the very eternal law, inherent in those who use reason, and inclining them to the proper good and end, and it is the very eternal reason of the Creator who governs the universe and all things.

To this rule of action and these restraints on sin, certain safeguards are added, by the grace of God, most suitable for confirming and governing the will of man. Among these, the divine virtue of grace is the foremost and most excellent; for it illuminates the mind and strengthens the will with salutary constancy, impelling it always towards the moral good, and making the use of its native freedom more efficient and safer. And it is far from the truth to say that, with the intervention of God, voluntary movements are less free; for the divine force of grace is intimately connected with the natural inclination of man, because it flows from the very Author of our soul and will, from whom all things are moved in accordance with their nature. Indeed, as the angelic Doctor teaches, divine grace, for this very reason, originates from the work of nature, and is wonderfully born and suited to preserve each nature and to conserve morals, power, and efficiency.

What has been said about the freedom of individuals applies to men.

[*Latin ed. p. 598*]

598 Letters are easily transmitted among those joined together by civil society. For – what reason and natural law effect in individual men, the same effect is produced in associated individuals; the human law promulgated for the common good of citizens. From the laws of men, some concern that which is good or evil, and nature, and they prescribe one to be followed, the other to be avoided, with the due sanction attached. "But such decrees do not originate from human society, because society, just as it did not itself generate human nature, so neither does it create that which is good

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according to nature, nor that which is evil contrary to nature; but rather, these decrees precede human society, and are entirely derived from natural law, and therefore from eternal law. Therefore, the precepts of natural law, comprehended in human laws, have not only the force of human law, but also, and especially, they encompass a higher and much more extensive dominion, which proceeds from natural law and from eternal law. And in this kind of laws, it is almost the duty of the civil legislator to make citizens obedient, by means of common discipline, to restrain the wicked and those prone to vice, so that, deterred from evil, they may pursue that which is right, so that they may not be a source of offense and harm to the state. — Other prescriptions of civil authority, however, do not immediately and directly follow from natural law, but rather, more remotely and indirectly, and they define various matters about which nature is only generally and universally concerned. Thus, nature commands citizens to contribute to the tranquility and prosperity of the public; how much effort, in what manner, and in what matters, is determined not by nature, but by human wisdom. Indeed, these particular rules of life, prudently devised and proposed by legitimate authority, constitute what is properly called human law. This law, indeed, commands all citizens to cooperate for the end proposed to the community, and forbids them to deviate; and insofar as it follows and consents to the prescriptions of nature, it leads to that which is honorable, and deters from that which is contrary. From this, it is understood that in eternal law, there is entirely established a norm and a rule for liberty, not only for individual men, but also for the community and for human association. — Therefore, in human society, true liberty is not found in doing whatever one pleases, even if it were the greatest multitude, and would result in confusion and oppression of the state, but rather, in being able to live according to the prescriptions of eternal law, more freely through civil laws. And for those who govern, liberty is not found in being able to command recklessly and according to their whims, which would be equally scandalous and connected with the greatest detriment to the republic, but rather, human laws should be such that they are:

[*Latin ed. p. 599*]

LETTERS V599 should be understood to emanate from three laws, and to sanction nothing that is not contained within them, just as in the beginning of all law. Most wisely, Augustine: "(1) And I also believe that you see that in that temporal [law] there is nothing just and legitimate which is not derived from this eternal [law] by men." Therefore, if anything is enacted by any authority that is contrary to the principles of right reason, and is harmful to the republic, it would have no force of law, because it would not be a rule of justice, and it would deprive men of the good to which society is born. Therefore, the nature of human liberty, considered in any way, whether in individual persons or in associations, and no less

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in those who govern than in those who are governed, necessarily includes obedience to a certain supreme and eternal reason, which is nothing other than the authority of God, who commands and forbids. And this most just rule of God is so far from taking away or diminishing liberty in any way, that rather it protects and perfects it. To pursue and attain its own end is the true perfection of all natures; and the highest end, to which human liberty should aspire, is God. These most true and highest precepts of doctrine, known to us either by the light of reason alone, or learned from the examples and teachings of the divine Author himself, the Church has widely spread, and has never ceased to use them to measure its own duty and to instruct the nations in the Christian faith. In matters of morals, the laws of the Gospel not only surpass all the wisdom of the Gentiles by a wide margin, but plainly call and lead men to an unheard-of sanctity, and, by producing a more intimate effect with God, they bring about a more perfect state of liberty. Thus, the great power of the Church has always been evident in preserving and defending the civil and political liberty of the people. It is unnecessary to enumerate its merits in this regard. It is enough to recall that the Church, through its work and benefit, has destroyed slavery, that ancient disgrace of the Gentile nations. Jesus Christ alone affirmed the equality of law and true brotherhood among men: and the voice of His Apostles echoed, "There is neither Jew nor Greek, neither slave nor freeman, neither barbarian nor Scythian, but Christ is all, and all are in Christ." Such is the virtue of the Church in this regard, and so well known, that wherever it sets its foot, it is discovered that rude customs cannot long endure: but that the gentle manners of the imitation of Christ will soon succeed to the darkness of barbarism, bringing the light of truth. Also, the people... (1) From *De Libero Arbitrio*, Book I, Chapter 6, paragraph 11.

[*Latin ed. p. 600*]

600 The Church has never ceased, at any time, to benefit those citizens who are cultivated and refined, either by resisting unjust decrees, or by defending the innocent and the weak from injuries, or finally, by providing services so that the constitution of the commonwealth may be maintained, which citizens desire for its fairness, and foreigners fear for its power. Furthermore, it is a most important duty to fear authority and to obey just laws: thus, through the vigilance and power of the laws, citizens are protected from the injuries of the wicked. Legitimate power comes from God, and he who resists authority resists the ordinance of God: thus, obedience gains much merit when it is offered to the most just and highest authority. – However, where the right to command is absent, or if anything is commanded that is contrary to reason, to eternal law, or to the command of God, it is right not to obey, namely, those who are men, so that obedience may be given to God. Thus, with access to tyranny closed, all things are preserved for the citizens: their individual rights are preserved, their do-

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mestic society is preserved, and all members of the commonwealth are preserved, with all given a true share of freedom, as we have shown, so that each may live according to the laws and right reason. But if, when they discuss freedom, they understood the legitimate and honest freedom, as reason and eloquence have described it, no one would dare to agitate the Church, because of what they falsely claim, either against the freedom of individuals, or against the free republic. – But now, many, imitating Lucifer, whose infamous words are "I will not serve," pursue a certain absurdity in the name of freedom, and a licentiousness that is shameful. Such are the people who, under the banner of freedom, wish to be called "Liberals." Truly, those who favor Liberalism, whether they are Naturalists or Rationalists, apply the same principles in moral and civil matters as they do in natural philosophy. – Indeed, rationalism is the head of human principles: it refuses obedience to divine and eternal reason, and declares itself to be its own law, thereby making itself its own supreme principle, its own source, and its own judge of truth. Thus, those whom we have called followers of Liberalism contend in their actions that nothing should be obeyed, not even divine power, but that each person should be his own law: hence, that philosophy of morals is born, which they call "independence," which, under the guise of freedom, removes the will from obedience to divine precepts, and often gives to man infinite license. – All of these things, especially in human society.

[*Latin ed. p. 601*]

LETTER 601: It is easily foreseen how such a doctrine will ultimately lead to ruin. For, if it is maintained that no authority stands above man, and that the cause of civil concord and society is to be sought not in some principle external to or superior to man, but in the free will of individuals, then the public authority must be derived from the multitude, as from its primary source. Furthermore, just as human reason alone is the guide and norm for each individual in his private actions, so too, it must be for all in matters of public concern. Hence, the many can achieve much, and the greater part of the people can become the effective source of law and duty.

But this is contrary to reason, as is evident from what has been said. Indeed, if there is no bond between man and God, the Creator and therefore the supreme Legislator of all, then this is entirely contrary to nature, not only of man, but of all created things. For all things produced are necessarily connected to the cause from which they are produced; and it belongs to all natures to be so connected, and this pertains to their perfection, to contain themselves within the place and degree that the natural order demands, namely, that what is above should be subject to and obey what is below.

Moreover, such a doctrine is most pernicious, both to private individuals and to states. For, if the distinction between good and evil is abolished,

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and if the sole and ultimate arbiter of truth and goodness is left to human reason, then the difference between what is honorable and what is dishonorable depends not on reality, but on the opinion and judgment of individuals. What pleases will be considered lawful; and with the established order of morals, which has scarcely any power to restrain and quiet the turbulent movements of the soul, the door will be opened to every kind of corruption in life. In public affairs, the power of command is separated from the true and natural principle from which it derives all its effective power for the common good. The law, which determines what must be done and what must be avoided, is permitted to be subject to the will of the majority, which is a path leading to tyrannical domination. With the rejection of the authority of God over man and human society, it necessarily follows that there will be no public religion, and the greatest neglect will result in all matters pertaining to religion. Similarly, when a multitude is armed with the opinion of self-government, it easily falls into sedition and unrest; and with the restraints of duty and conscience removed, nothing remains but force; but this force is not sufficient to restrain the desires of the people. This is sufficiently demonstrated by the almost daily struggles against socialists and other seditious groups, who constantly strive to overthrow states.

Therefore, let those who rightly assess matters decide whether such doctrines are beneficial or harmful.

[*Latin ed. p. 602*]

602 Letters, whether to true and worthy human liberty, or rather, whether they completely pervert and corrupt it. Indeed, we have seen that even with their own inherent inhumanity, those opinions which openly abhor the truth, and which are the cause of the greatest evils, are not all accepted by the advocates of Liberalism. Moreover, compelled by the power of truth, many of them do not hesitate to admit, and even freely affirm, that liberty, if it dares to act immoderately, abandoning truth and justice, falls into vice and outright license; therefore, it must be governed and regulated by right reason, and consequently, it must be subject to the natural law and the eternal divine law. But here we must pause, for they deny that a free man should be subject to laws imposed by God, except those based on natural reason. — This is entirely inconsistent with what they themselves claim. For if it is true, as they themselves concede, that no one can dissent from the fact that obedience must be given to the will of God, because all of man is in the power of God and tends towards God, it follows that no one can prescribe limits or boundaries to His legislative authority, and in doing so, they would themselves act contrary to the obedience due. Indeed, if human reason dares to arrogate to itself the power to determine what are the rights of God and what are its own duties, it will retain the appearance of divine laws more than the reality,

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and its own judgment will prevail over the authority and providence of God. — Therefore, it is necessary, constantly and religiously, to seek the rule for living, both from the eternal law and from all the individual laws which the infinitely wise and infinitely powerful God has given, according to what He has seen fit, and which we can safely know through clear and unambiguous signs. Moreover, since these laws, because they have the same principle and the same Author as the eternal law, are entirely in agreement with reason and add perfection to nature; and since they encompass the very teaching of God Himself, who, indeed, benignly governs both our mind and our will with His guidance and care, so that neither may err. Therefore, let it be sacredly and inviolably joined together, and let it not be separated, and in all things, let obedience be given to God, according to what natural reason dictates.

Some are somewhat milder, but no less inconsistent, who say that life and conduct should indeed be guided by the will of divine laws in the case of individuals, but that it is permissible for the state to deviate from the commands of God in public affairs, and that it should in no way take into account the divine will when enacting laws. From this, a pernicious consequence arises: the state...

[*Latin ed. p. 603*]

LETTERS 603 and their reasons must be separated! But these things, however absurdly they are said, are easily understood. For when nature itself proclaims that citizens in society must have the means and opportunities to live an honest life, that is, according to the laws of God, because God is the principle of all honesty and justice, it certainly contradicts that very same thing to say that these same people should not care about those laws, or even to establish something harmful to the state. Furthermore, those who govern the people owe it entirely to the republic, so that not only external goods and things, but especially the goods of the soul, may be consulted by the wisdom of the laws. But concerning the increase of these goods, it cannot even be conceived that anything is more suitable to them than those laws which have God as their author; and therefore, those who, when governing states, do not want to take divine laws into consideration, deviate from their own purpose and from the prescription of nature regarding political power. But what is more important, and which We have not warned you about only once, is that although civil government does not concern itself as closely as the priesthood, nor does it follow the same paths, nevertheless, in the exercise of power, it must sometimes meet the other, and indeed necessarily. For both have authority over the same people, and it often happens that both, although not by the same means, decide on the same matters. Whenever this happens, it is absurd and openly contradicts the most wise will of God, that there must be a certain order and arrangement, so that, with the causes of contention and disputes re-

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moved, a harmonious agreement may exist in the conduct of affairs. And this kind of harmony has been aptly called similar to the connection that exists between the soul and the body, which is beneficial to both parts: the separation of which is specifically harmful to the body, since the life of the body is extinguished. To make this clearer, the various advancements of liberty, which are said to be characteristic of our age, must be considered separately. And first, let us see in each individual what is so contrary to the virtue of religion, namely, the so-called freedom of worship. This is established as a foundation, that each person must be free to profess any religion, or no religion at all. But, on the other hand, without a doubt, the greatest and most sacred of all human duties is that we are commanded to worship God piously and religiously. And this necessarily follows from the fact that we are perpetually in the power of God, governed by the will and providence of God, and from this, we must return to Him. Furthermore, there can be no true virtue without religion: for moral virtue is that which concerns itself with those things that lead to...

[*Latin ed. p. 604*]

604 Letters to God, because for man it is the supreme and ultimate good; therefore, religion, which works those things which are directly and immediately ordered to divine honor (1), is the principal and regulator of all virtues. And if it is asked, when there are many and dissenting religions, which one must necessarily follow, certainly reason and nature respond that it is that which God has commanded, and that which men can easily recognize by certain external signs, by which divine providence has willed to distinguish it, because in a matter of such importance, the greatest ruin would result from error. Therefore, with this freedom offered, man is given the power to pervert or neglect the most sacred duty, and therefore, to turn away from the immutable good and turn to evil: which, as we have said, is not freedom but the corruption of freedom, and the servitude of the soul to sin. The same freedom, if considered in civil societies, certainly means that there is nothing that a civil society should offer or publicly wish to offer to God: nothing should be preferred to another, but all must be treated with equal justice, nor should the reason of the people be considered, if the people profess the name of Catholic. For these things to be true, it must be the case that the civil duties of men towards God are either none, or can be freely fulfilled: which is both openly false. For it cannot be doubted that it is God's will that society, whether among men, or in its form as authority, or in its cause, or in the things it offers to man, should be for the great benefit and advantage! God is the one who created man for association and placed him in a gathering of his like, so that what his nature desires, which he could not achieve alone, he may find in association. Therefore, it is necessary that civil society, because it is a society, should recognize God as its parent and author, and should fear and worship his power. There-

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fore, justice forbids, and reason forbids, atheism, or, which would fall into atheism, a state that treats various, as they say, religions with equal regard, and grants the same rights to each. Therefore, since the profession of one religion is necessary in a state, it is fitting to profess that which is uniquely true, and which is easily recognized, especially in Catholic states, since in it appear as if marked signs of truth. Therefore, those who govern the republic should preserve and protect this, if they wish to do so prudently and usefully, as they ought, for the common good of the citizens.

(1) S. Th. I M I . qu. LXXXI . a. 6.

[*Latin ed. p. 605*]

LETTER 608. For civil authority is established for the benefit of those who are governed; and although it primarily aims to promote the prosperity of life on earth, it ought not to diminish, but rather to increase, a man's capacity to attain that highest and ultimate good, in which eternal happiness of men consists: which cannot be achieved without religion. But we have explained these matters more fully elsewhere; for the present, we merely wish to point out that such freedom greatly harms both the freedom of those who govern and that of those who are governed. Religion, on the other hand, is wonderfully beneficial, since it traces the origin of power back to God Himself, and it strongly urges rulers to remember their duties, to issue no unjust or harsh commands, but to govern the people with kindness and almost paternal affection. It also desires that citizens should be subject to legitimate authority, as to the ministers of God; and it joins them to their rulers, not only through obedience, but also through reverence and love, forbidding sedition and all undertakings that may disturb public order and tranquility, and which, in the end, are the cause why the freedom of citizens is restricted by stricter laws. We pass over how much religion contributes to good morals, and how much good morals contribute to freedom. For reason shows, and history confirms, that the more virtuous a people is, the more it flourishes in freedom, in wealth, and in power.

Now, let us consider the freedom of speech, and the freedom to express whatever one pleases in writing. Surely, it is hardly necessary to say that this freedom, which is certainly not moderate but exceeds all bounds, cannot be a legitimate right. For a right is a moral power, which, as we have said more than once, it is absurd to suppose that nature has given indiscriminately and in common to both truth and falsehood, to both honesty and wickedness. It is the right of truth, and of that which is honest, to be freely and prudently propagated in the state, so that it may reach as many as possible; while falsehoods, which are the deadliest plague to the mind, as well as vices that corrupt the soul and morals, ought to be diligently restrained by public authority, lest they spread to the ruin of the republic. The sins of a licentious spirit, which certainly lead to the oppression of the ignorant multitude, ought to be restrained by the authority of the laws, no

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less than those injuries that are inflicted by force upon the weaker. This is especially true because the vast majority of citizens are unable to guard against deceptions and captious arguments, especially those that appeal to their desires, or they are quite unable to do so, or they are unable to do so without great difficulty. If everyone is given unlimited freedom to speak and write, nothing is sacred.

[*Latin ed. p. 606*]

606 Letters, if they violate the unique [divine] law, are not to be obeyed, even if they seem to be based on the most plausible and true judgments of nature, which must be held as the common and most noble heritage of the human race. Thus, when obscured by darkness, the truth, as often happens, is easily dominated by a pernicious and manifold error of opinion. Therefore, license for indulgence gains only as much as the detriment of liberty; for the greater the restraints on license, the greater and safer will be the liberty. — But concerning matters open to opinion, and to which men are permitted by God to freely express their sentiments, it is granted to speak freely, provided it does not contradict nature; for such liberty never leads men to suppress the truth, but often to seek it out and make it known. Of this liberty, which they call the freedom of teaching, it is necessary to judge in a similar manner. — Since it cannot be doubted that the mind should be imbued solely with the truth, which is the good, end, and perfection of intelligent natures, therefore, doctrine should teach only the truth, both to those who are ignorant and to those who are learned, so that it may impart knowledge of the truth to the former, and preserve it in the latter. For this reason, it is clearly the duty of those who teach to remove error from the minds of others, and to block the way to deceptive opinions with certain safeguards. Therefore, it is clearly contrary to reason, and born of a desire to utterly corrupt the minds of those to whom the discourse is addressed, that freedom which some seek under the pretext of a license to teach according to their own judgment; and this license, the public authority cannot grant, without neglecting its duty. Moreover, the authority of teachers has great weight with their audience, and it is rarely the case that a student can, by himself, judge whether what is taught by the teacher is true. Therefore, this freedom, too, must be held within certain limits, so that it may be honest; namely, so that it may not happen that the art of teaching is turned into an instrument of corruption. — The truths in which the doctrine of those who teach should solely dwell, are of one kind natural, and of another kind supernatural. Of natural truths, such as the principles of nature, and those which are closely deduced from them, there exists a common heritage of the human race; upon which, as on a firm foundation, morality, justice, and religion, and indeed the very union of human society, are based; and there could be nothing more impious, or more foolishly inhuman, than to allow such things to be violated or destroyed with impunity. — And no less must

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be preserved, with the utmost sanctity, the greatest treasure of those things which...

[*Latin ed. p. 607*]

LETTER 607. With God as our author, we know. Using many and illustrious arguments, as the Apologists were accustomed to do, certain principal points are established, such as these: that certain things are divinely revealed by God: the Only-Begotten Son of God, made flesh, so that He might bear witness to the truth; and a certain perfect society, namely, the Church, of which He Himself is the head, and which He has promised to preserve until the consummation of the world. To this society, He willed that all those whom He had taught should adhere, by this law, so that they might preserve and defend it with legitimate authority; and He commanded all the nations of His Church, just as He commanded Himself, to listen to it; and that those who should act otherwise would perish eternally. Therefore, it is clearly evident that God is the best and most certain teacher for man, the source and principle of all truth; and also the Only-Begotten, who is in the bosom of the Father, the way, the truth, and the life, the true light that illuminates every man, and to whose discipline all men ought to be docile: "And they shall all be taught of God" (1). But in faith and in the institution of morals, God Himself has made the Church a participant in His divine teaching, and I know not how that same Church could be deceived by His divine grace; therefore, it is the greatest and safest teacher for mortals, and it possesses an inviolable right to the freedom of its teaching. Truly, the Church, maintaining itself by divinely revealed doctrines, has nothing older than to piously fulfill the office entrusted to it by God; and, surrounded on all sides by difficulties, it has never ceased to defend the freedom of its teaching. In this way, the world has been renewed from the most miserable superstition to Christian wisdom. For, indeed, reason itself clearly teaches that divinely revealed truths and natural truths cannot be truly opposed to each other, so that whatever contradicts them must necessarily be false; therefore, the divine teaching of the Church is far from hindering the pursuit of learning and the advancement of sciences, or in any way retarding the progress of a more refined humanity, but rather it contributes greatly to the secure light and protection thereof. And for this reason, it greatly benefits the very perfection of human freedom, since the sentiment of the Savior, Jesus Christ, is that to become a man free through truth. "You shall know the truth, and the truth will set you free" (2). Therefore, there is no reason why German liberty should be offended, or why the true name of science should resent the just and proper laws by which the instruction of men is contained.

(1) John 6, verse 45.

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(2) John 8, verse 32.

[*Latin ed. p. 608*]

60. Both the Church and reason demand this. Indeed, the Church, as is abundantly demonstrated by the facts, acts primarily and most of all to safeguard the Christian faith, and also strives to foster and promote every kind of human learning. For, in itself, the elegance of doctrine is good, laudable, and to be sought after; and moreover, all knowledge, which sound reason has produced, and which corresponds to the truth of things, is of great value in illustrating those very things which we believe on the authority of God. Truly, the Church owes great benefits to this, for it preserves the monuments of ancient wisdom; it has opened up the abodes of science; it has always encouraged the course of genius, diligently fostering those very arts by which our age is so richly adorned.

Finally, it must not be overlooked that there is an immense field in which men can freely pursue their endeavors and exercise their talents: namely, matters which have no necessary connection with the doctrine of the Christian faith and morals, or about which the Church, without exercising its authority, leaves the judgment of scholars entirely free and unfettered.

From these things, it is understood what and what kind of freedom is that which is desired and proclaimed with equal zeal by the adherents of liberalism. On the one hand, they assert such great freedom for themselves and for the state, that they do not hesitate to open the door and provide access to every perversion of opinion; on the other hand, they greatly hinder the Church, and strive to restrict its freedom as much as possible, although, from the Church's doctrine, no harm whatever is to be feared, but rather great benefits are to be expected.

They also greatly extol that freedom which they call the freedom of conscience: which, if it is understood to mean that it is equally permissible for everyone, according to their own judgment, to worship or not to worship God, is sufficiently refuted by the arguments presented above.

But it can also be understood in this sense, that it is permissible for a man, from his conscience, to follow the will of God and to obey His commands, without any impediment, in the state. This indeed is true, this is the freedom worthy of the children of God, which most honorably protects the human dignity of the person; it is a freedom which the Church has always desired and held most dear. The Apostles have steadfastly defended this kind of freedom, the Apologists have confirmed it in their writings, and a great number of Martyrs have consecrated it with their blood. And rightly so, for this Christian freedom testifies to the greatest and most just power of God over men, and, conversely, to the highest and most important duty

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of men towards God. It has nothing to do with...

[*Latin ed. p. 609*]

The very nature of a seditious and disobedient spirit is common: and it must be understood that a desire to withdraw from obedience to public authority is not justifiable, because to command and to demand obedience is a right belonging to human authority, insofar as it does not contradict the power of God, and insofar as it is contained within the limits established by divine law. But, on the other hand, when something is commanded that clearly contradicts the divine will, then that action is far removed from the path of righteousness, and is, in fact, a rejection of divine authority: therefore, it is right to disobey. On the contrary, the advocates of Liberalism, who make the prince all-powerful and infinitely strong, and who preach a life that respects nothing of God, do not at all acknowledge this connection between freedom and honesty and religion: and if anything is done to preserve it, it is considered an injustice and a crime against the republic. If they were to speak truly, there would be no tyranny so great that it would not be necessary to resist and to bear. Indeed, the Church earnestly desires that these principles, which we have briefly touched upon, should permeate all aspects of public life. For in them lies the greatest efficacy in healing the evils of our times, evils which are not few, nor are they light, and which arise in large part from those very freedoms which are so loudly proclaimed, and in which the seeds of salvation and glory seem to be contained. The outcome, however, has been disappointing. Pleasant and salutary things have produced bitter and corrupt fruits. If a remedy is sought, let it be sought in the restoration of sound doctrines, from which alone the preservation of order, and therefore true freedom, can be confidently expected. Nevertheless, the Church, with maternal wisdom, recognizes the weakness of human nature: and she is not ignorant of the course of events and the state of affairs in this our age. For these reasons, although she does not apply the law except to those things that are true and just, she does not refuse to allow public authority to enact laws that are, in some way, alien from truth and justice, namely, for the sake of avoiding a greater evil, or of attaining or preserving a greater good. The most provident God, with His infinite goodness, and with His power to do all things, nevertheless allows evils to exist in the world, partly so that greater goods may not be hindered, and partly so that greater evils may not result. In governing states, the ruler of the world is worthy of imitation: and although authority cannot always prevent every evil, it must often grant certain things and allow them to go unpunished, so that, through divine providence, they may be vindicated, and rightly so (1). However, in such matters, if the common good (1) Augustine, *De Libero Arbitrio*, Book 1, Chapter 6, paragraph

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14. Acta, Volume XX, pages CCXZ and CD.

[*Latin ed. p. 610*]

610 Letters, for a good cause and for that cause alone, can, or even ought, to tolerate evil; however, neither can they, nor ought they, to approve of it or will it of themselves: because evil, being the privation of good, is contrary to the common good, which the legislator, as far as possible, ought to will and protect. And in this matter also, human law must propose God as a model, who, while allowing evil to exist in the world, neither wills evil to be done, nor wills evil not to be done, but wills evil to be permitted, and this is good (1). This opinion of the Angelic Doctor briefly contains the entire doctrine concerning the tolerance of evils.

But it must be admitted, if one wishes to judge truly, that the more evils that must be tolerated in a state, so much the more does that kind of state deviate from the best; and also, since the tolerance of evil things pertains to the precepts of political prudence, it must be entirely circumscribed by those limits which the cause, that is, the public good, demands. Therefore, if it brings detriment to the public good and causes greater evils to the state, it follows that it is not permissible to employ it, because in these matters, reason of the good is absent. If, however, it is useful for particular times of the state, as the Church acquiesces in some modern liberties, not because she approves of them in themselves, but because she judges it expedient to allow them, then, in better times, she would certainly use her freedom, and, as she ought, strive to fulfill the task assigned to her by God, namely, to promote the eternal salvation of men. However, it is always true that this freedom, for all and in all things, is not to be sought after in itself, as we have said many times, because it is contrary to reason to consider falsehood to be equal to truth. And with regard to tolerance, it is surprising how much those who profess Liberalism deviate from equity and prudence. For, granting citizens unlimited license in all the things we have mentioned, they go beyond all bounds, and end up giving no more weight to honesty and truth than to falsehood and wickedness. The Church, however, the pillar and firm foundation of truth, and also the incorruptible teacher of morals, is rightly accused of being alien to patience and mildness, because she constantly, as she ought, rejects such a dissolute and scandalous kind of tolerance, and it is fitting that she should. For what they do, they do not realize that they are, indeed, praising vice. But in such an ostentatious display of tolerance, it often happens that they are restricted and tenacious in matters concerning the Catholic faith; and those who are tolerant in all things are often intolerant of the common people (1).

(1) S. Th. p. 1, q. XIXa. 9, ad 3.

[*Latin ed. p. 611*]

LETTERS 611 lavishly proclaim liberty, yet they stubbornly refuse to

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allow the Church freedom throughout. And so that every argument, along with its consequences, may be briefly and clearly summarized, the essential point is this: it is necessary that the entire person be subject to the most true and perpetual power of God; therefore, human liberty cannot be understood, unless it is subject to God and to His will. To deny that God is the supreme authority, or to refuse to submit to Him, is not the act of a free man, but of one who abuses liberty to his own ruin; and this is precisely the fundamental vice of Liberalism. However, its form is varied; for the will can deviate from obedience in many ways, and to varying degrees, whether that obedience is due to God, or to those who participate in divine authority. Indeed, to utterly reject the authority of the supreme God and to entirely renounce obedience, whether in public matters or even in private and domestic affairs, is the greatest perversion of liberty, and the worst form of Liberalism; and everything we have said so far must be understood in this light. Closely related to this is the teaching of those who, while admitting that the world and its prince, God, ought to be obeyed, since all of nature is suited to this, nevertheless boldly reject the laws of faith and morals, which nature cannot grasp, and which have been handed down by the very authority of God, or at least they claim that there is no reason to observe them, especially in public life within the state. We have already seen how much these people are mistaken, and how little coherence there is in their own thinking. And from this doctrine, like a head and a principle, flows the pernicious opinion that the institutions of the Church should be separated from the state: whereas, on the contrary, it is clear that the two powers, though different in their function and degree, must nevertheless be in harmony in their actions and in agreement in the changes of their offices. Two opinions are subject to this general type. Some want the Church to be completely and utterly separated from the state, so that in all matters of human society, in institutions, morals, laws, and the functions of the state, and in the education of youth, they believe that the Church should be considered as little as if it were entirely nonexistent; allowing each citizen the greatest possible freedom to devote himself to religion privately, if he so desires. Against whom, of course, all the force of our arguments is valid, with which we refute the very opinion of separating the institutions of the Church from those of the state; and furthermore, it is absurd that the state should fear the Church, while the state is despised. Others do not object to the existence of the Church, nor could they; but they deny that the nature and rights proper to a perfect society exist.

[*Latin ed. p. 612*]

612 They assert that the Church does not enact laws, administer justice, or exact punishment, but merely exhorts, advises, and governs its subjects according to its own will and discretion. Thus, they distort the nature of this divine society, diminish its authority and magisterium, and restrict

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its efficacy, while simultaneously exaggerating the power and influence of the civil authority, so that they would subject the Church of God, just as any voluntary association of citizens, to the dominion and jurisdiction of the republic. — These arguments are readily refuted by the arguments commonly used by Apologists, and which have not been overlooked by us, especially in the Encyclical Letter *Immortale Dei*, from which it is clear that it is divinely established that everything pertaining to the nature and rights of a complete and perfect society should be present in the Church. Many, indeed, do not approve of the separation of sacred things from civil affairs; but they believe that the Church should adapt to the times, and bend and conform itself to those things which present-day prudence requires in the administration of governments. This is an honorable opinion, if it is understood in a certain reasonable way, which can be consistent with truth and justice: namely, that if there is a prospect of some great good, the Church may concede certain things, and grant concessions in times of need, provided that the sanctity of its office is preserved. — But it is different with matters and doctrines that have been distorted by changing morals and false judgment, and which are contrary to what is right. No time can be excused from religion, truth, and justice: for these are the greatest and most sacred things, and since God has commanded that these should be protected in the Church, there is nothing more alien than to wish that the Church should conceal what is false or unjust, or connive at things that are harmful to religion. Therefore, from what has been said, it follows that it is by no means permissible to demand, defend, or grant freedom of thought, writing, teaching, or promiscuous religious freedom, as if these were rights that nature has given to man. For if nature had truly given them, the authority of God would be rejected, and human freedom could not be subject to any law. — Similarly, it follows that these kinds of freedom, if there are just reasons, can indeed be tolerated, but with a certain moderation, so that they do not degenerate into licentiousness and insolence. — Where the custom of these freedoms prevails, let citizens transfer them to the ability to do what is right, and let them feel what the Church feels about them. For every freedom is to be considered legitimate insofar as it contributes to the greater ability to do what is honest, and no further. Where such freedoms oppress or hinder, or where the civil authority unjustly holds the state in bondage, or compels the Church to lack its due freedom, it is permissible to seek another arrangement for the republic, in which

[*Latin ed. p. 613*]

LETTERS 613: It is permissible to act with freedom; for then, not that excessive and vicious freedom is expedited, but rather some alleviation is sought for the cause of the salvation of all, and this is done solely so that, where license is granted for evil things, the power to do what is honorable may not be hindered. And it is not, in itself, contrary to duty to

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prefer a state of affairs tempered by popular sentiment for the good of the republic, provided that the Catholic doctrine concerning the origin and administration of public power is maintained. The Church does not reject any form of government, provided that it is, in itself, suitable for the purpose of consulting the welfare of the citizens; however, she desires that each be established, insofar as nature plainly commands it, without injury to anyone, and especially with the integrity of the Church's rights. To engage in public affairs is honorable, unless, in some particular circumstance, due to the singular condition of things and times, other precautions are necessary; indeed, the Church approves that each contribute his efforts to the common good, and that, as much as each can, he defend, preserve, and increase the republic. The Church does not condemn the desire to serve one's own people, nor any external power, nor any lord, provided that justice is maintained, and that it can be done without harm. Finally, she does not reproach those who strive to ensure that the cities live according to their laws, and that the citizens are endowed with the greatest possible means of improving their condition. The Church has always been the most faithful advocate of civic freedoms, provided they are not excessive; this is most clearly demonstrated by the Italian cities, which, through municipal law, have attained prosperity, wealth, and the glory of their name, at a time when the salutary power of the Church permeated all parts of the republic, without any opposition. These things, venerable Brothers, which we have presented to you, guided by faith and reason, for the sake of our apostolic office, we trust will be fruitful for many, especially for you who are with us. We, in the humility of our hearts, raise our eyes to God, and earnestly pray that He may deign to bestow the light of His wisdom and counsel upon men, so that, strengthened by these virtues, they may discern the truth in matters of such importance, and, consequently, may live according to truth, privately, publicly, and with unwavering constancy in all times. We impart to you, venerable Brothers, and to the clergy and people to whom you preside, the Apostolic Blessing, earnestly in the Lord. Given at Rome, at St. Peter's, on the 20th of June, in the year 1888, in the eleventh year of Our Pontificate. LEO XIII.

[*Latin ed. p. 614*]

614 FROM THE CONSISTORY ACTS, Thursday, June 1, 1888. His Most Holy Lord Leo XIII, in the Vatican Palace, held a secret Consistory, in which the Most Eminent and Reverend Cardinal Serafini presented to His Most Holy Lord Pope the Pallium of the Sacred College of Cardinals of the Holy Roman Church, which His Holiness entrusted to the Most Eminent and Reverend Cardinal Parocchi as Chamberlain for the present year of the same Sacred College of Cardinals; after the aforementioned Most Eminent and Reverend Cardinal Serafini had requested the suburban Church of Saint Sabinus, and the Most Eminent and Reverend Cardinal

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Joseph Hergenrother had requested the deaconry of Saint Nicholas in the Tullian Prison, the aforementioned His Most Holy Lord thus spoke to the Venerable Cardinals: ADDRESS OF HIS MOST HOLY LORD LEO XIII, POPE, GIVEN IN THE CONSISTORY ON THE KALENDS OF JUNE, YEAR 1888. Venerable Brothers, It is truly a wondrous example of piety and public devotion that has been witnessed throughout this year, in the fiftieth year of Our priesthood, through a singular and providentially ordained ministry, throughout all the nations. We have been overwhelmed by the daily frequency of those who come to pay their respects; we have received tributes from all classes of citizens, and in various, unexpected ways. To thousands of people from all of Europe, and not a few from the more distant parts of America, and most recently from Africa, we have welcomed them within these walls. In this most beautiful and honorable display of piety, you have been able to see, Venerable Brothers, the place that the Italian people have claimed for themselves: which, indeed, has confirmed their ancient and enduring devotion to the Apostolic See with brilliant and manifold significance. It seemed fitting, and indeed prudence and humanity itself demanded, that nothing discordant be added to the voices of those who offer congratulations. Nevertheless, there were those at home who dissented; indeed, it seems that these very honors bestowed upon the Roman Pontiff have inflamed the resentment of those who hate the Church with implacable hatred: whose offended and hostile spirit, throughout this entire period, has been—

[*Latin ed. p. 615*]

IX. CONSISTORIAL ACTS 615. More slowly than others, and mixed with threats of condemnation, it emerges. These individuals, since they possess the greatest power, are now more confident in their plans: and, with obstacles multiplied throughout, they strive daily to bind the Church with ever stronger chains. Such proposals, even if other factors were absent, provide a new and lamentable testimony in the *Codex delictorum et poenarum*, in which the opinions of this assembly of legislators are recorded: for we understand that there are laws contained within, which, while ostensibly concerning the Catholic clergy, in reality touch upon the rights of the Apostolic See. And since the matter at hand is of the greatest importance, We have decided to briefly communicate Our thoughts on this very subject to you, Venerable Brothers; the essence of these laws is this: certain offenses are fabricated, by which the nation is said to be violated, and these are punished with very severe penalties, yet what these offenses actually are is not explained. Similarly, under the guise of prohibiting discrimination, which is said to threaten the power of the clergy most of all, priests are severely punished if they are found to have done or incited something contrary to the laws, contrary to civil institutions, or to the acts of public authority, or even contrary to domestic tranquility, or to the affairs of

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anyone's family. — These laws, Venerable Brothers, undoubtedly pertain to a certain matter, especially if they are considered together with others of a similar nature, and especially when the intentions of those who are the authors of these laws are well known. First of all, they seek to seize the power to punish, in order to deprive the Roman Pontiff of his rights, under the pretext of fear of punishment. — But it scarcely needs to be said how unjust it is, to attack the most sacred rights, which are fitting and connected with the legitimate freedom of the Church, to attack them at will, and not even to allow them to be defended without impunity. Since these rights are the inviolable rights of all Catholics, there is no doubt that there will be throughout the world those who freely defend the patronage of the Apostolic See, and especially among Catholics in Italy, who above all others should do so, although forbidden by law. — But what is more important, as We have often said, the condition of the Roman Pontiffs, which is necessary for the preservation of their freedom, does not hinder the affairs of Italy, but rather greatly and truly benefits them, so that whoever defends this freedom is not an enemy of the nation, but is to be considered the best and most faithful citizens. Furthermore, these very laws, while ostensibly intended to protect the Republic, conceal the servitude of the Church. For it is the most sacred duty and mission of the Church to constantly preach all things, and to defend all things, whatever they may be, which Jesus Christ has commanded her to preach and defend; therefore, in the laws and institutions of the state, if

[*Latin ed. p. 616*]

It is impossible for the clergy, or for Christians, to remain silent when confronted with actions that contradict the precepts of faith and morals; rather, they must follow the example of the Apostles, who, when ordered by magistrates to cease speaking about Jesus Christ and His doctrine, responded with courage: "Whether it be right in the sight of God, to hear you rather than Him, you must judge." What would have become of the Christian name if the Church had yielded to any custom of the people, or to the commands of magistrates, without distinction, even if those things were true or false? The ancient superstition would have remained enshrined in law, and mankind would never have emerged into the light of the Gospel. But above all, it is unjust that weapons of defense must be raised against the Church. Is this truly the case? The Church is the teacher and guardian of all justice, born to suffer injustices, not to inflict them. It is also far removed from truth and justice to subject the entire order of the clergy to such grave suspicions without just cause. There is no apparent reason why new decrees are being enacted against them. When has the Italian clergy, in any place, deserved such treatment regarding the public good or tranquility? But if we examine the matter more closely, it becomes clear how much these articles of law are contrary to the most sacred institutions of the Church.

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For the Church, by the will of God, is a perfect society, and just as it has its own laws, so too it has its own magistrates, properly distinguished by rank, with the Roman Pontiff as their head, divinely appointed over the entire Church, and subject only to the judgment of God alone. Therefore, in what they do, they rather inflict than repel injuries. And they do this through a singular law, with deliberate severity, and not with defined and certain judgments, but with vague and broadly worded provisions, so that no one can resist the desire to interpret them in any way. Therefore, it is not surprising that the indignation of so many who disapprove or protest has been expressed. We know of other laws elsewhere that are also against the clergy. But these examples are not made more probable by what we are saying; and what is more, the Church has never yielded to laws of this kind in any place or in any way, but has always resisted them as much as possible. It must also be noted that these laws were enacted at a time when the passions of factions were burning fiercely against the Catholic name, and when justice, moderation, and tranquility were absent. With calmer minds, better plans are being undertaken in many places, and we see that the odious force of those laws is diminishing, partly through disuse, and partly through contrary laws. (1) Acts 4:19.

[*Latin ed. p. 617*]

From the Consistorial Acts 617. Concerning these matters, We raise Our Apostolic voice, and openly, as We do, declare that the laws in question are contrary to the law and power of the Church, that they are detrimental to the freedom of the sacred offices, and that they greatly diminish the dignity of Bishops, of the clergy as a whole, and especially of the Apostolic See, to such an extent that it is by no means permissible to establish, approve, or sanction them. And We lament this not because We fear the approach of a more severe conflict. For the Church has weathered greater storms, and in all of them has emerged victorious, more beautiful, and stronger. Divine power protects it from men. We know the Bishops; We are not ignorant, either, of the clergy of Italy: if such circumstances should arise that one or the other is compelled to displease men, or to commit offenses in the most sacred duties, We have no doubt what they will do. But it greatly distresses Us that the Church and the Papacy should be so vigorously attacked in Italy, when the Italian people, by far the largest in number, observe and venerate the Papacy and the Church with such remarkable constancy, and when from the Church and the Papacy has always flowed an infinite stream of benefits into the Italian nation. It also grieves Us that, with all its resources and with all its strength, it strives to separate this people from the Church, which is held high and nurtured in the very bosom of the Church: and We are equally pained that this discord, which We, for the sake of the Church itself and out of love for the homeland, desire above all else to see completely removed, as We have often said, should be prolonged

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by deliberate means, in a manner that completely ignores the demands of justice and the rights of the Apostolic See. To wish to permanently oppose the Church is a foolish policy, most pernicious to the public good: but none is more harmful than to the Italian people. Therefore, since We can do no more, We implore God, again and again, to look favorably upon this situation, to be the author of better times, and especially to grant to the Italian people that they may perpetually preserve the integrity of the Catholic faith, joined with love for the Apostolic See, and that they may be willing to suffer and endure anything for the sake of these blessings. After this address, Our Most Holy Lord proposed the following churches: The CATHEDRAL CHURCH of SABINA, together with the abbatial title annexed to the CHURCH of Saint Mary of Farfa, which is vacant, following the death of the Most Reverend Thomas, while the Most Reverend Cardinal Martinelli of the Holy Roman Church was still living.

[*Latin ed. p. 618*]

618 FROM THE CONSISTORY ACTS: Bishops who have died near the Roman curia; whom His Eminence and Most Reverend Aloysius, Cardinal Priest of the Title of Saint Jerome of the Illyrians, of the same Most Holy Roman Church, intends to propose, having relinquished the aforementioned priestly title. The titular archiepiscopal church of Anazarbus is vacant, through the succession of the Most Reverend Father Michael Logue to the metropolitan See of Armagh, with the favor of the Most Reverend Father Francis Laurencin, a priest of the diocese of Gratianopolis. The Most Reverend Father Francis Laurencin, born of legitimate, Catholic, and honorable parents in the town commonly called le-Mattier, in the diocese of Gratianopolis, and having surpassed his sixty-third year, having for many years performed the office of parish priest in Guadalupe, or Imae Telluris, in the aforementioned diocese, and then having been appointed as general vicar there, and as Prefect of the Pontifical House, and as Apostolic Administrator for that city and diocese until now, is presented. The cathedral church of Portalegre is vacant, through the death of the Very Reverend Emanuel Bernard de Souza Ennes, the last of those bishops to have died outside the Roman curia, with the favor of the Most Reverend Father Gaudentius Joseph Pereira, titular Archbishop of Mitylene, already a suffragan of the Patriarchate of Lisbon, for presentation to the Most Serene King of Portugal and the Algarves. The titular archiepiscopal church of Mitylene is vacant, through the translation of the Most Reverend Father Gaudentius Joseph Pereira to the cathedral See of Portugal, with the favor of the Reverend Father Emmanuel Baptista da Cunha, a priest of the diocese of Coimbra: who was also appointed as a suffragan to perform pontifical and other pastoral duties in the city and Patriarchate of Lisbon. The Reverend Father Emmanuel Baptista da Cunha, born of legitimate, Catholic, and honorable parents in the town commonly called Paradella, in the diocese of Coimbra,

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and having surpassed his forty-fifth year, having received the degree of Bachelor (Licentiate) in the theological faculty, and having been formed in both laws (Doctor), having taught ecclesiastical sciences in Aveiro, and in the seminary of Coimbra, in the diocese of Aveiro, having been appointed as general vicar while it existed, and most recently having resigned from the office of Provisor and General Vicar in spiritual matters to the Most Reverend Patriarch of Lisbon. The titular episcopal church of Cariopolis, under the Archiepiscopal Stauropolite, is vacant, through the death of the Very Reverend Agapii Bsciai, the last of those bishops to have died outside the Roman curia, with the favor of the Most Reverend Father Francis Giampaolo, Bishop of Larino.

[*Latin ed. p. 619*]

FROM THE CONSISTORY ACTS:

The Cathedral Church of Isclân is vacant, due to the translation of the Reverend Father Dominic Ianuarius Portanova to the Metropolitan See of Reggio, but the effect of this translation is suspended pending the approval of His Holiness, with the favor of the Reverend Father Joseph Candido, titular Bishop of Lampsacus, and Auxiliary Bishop, with future succession to the present Ordinary of Neocastrensis.

The Cathedral Church of Tlascalan, or Angelopolitan, in the territory of Mexicana, in the northern part of Americae, is vacant, due to the death of the Reverend Father Joseph Maria Mora and Daza, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father Francis Melithonis Vargas, Bishop of Colima, in its stead.

The Cathedral Church of Uritan is vacant, due to the death of the Reverend Father Aloysius Margarita, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father Thomas Montefusco, titular Bishop of Corycus.

The Cathedral Church of Suessan is vacant, due to the death of the Reverend Father Carolus de Caprio, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father John Baptist Maria Diamare, Bishop of Laquedonia.

The Cathedral Church of Oscen, to which, according to Apostolic Letters dated the ninth of September, 1851, another church, that of Barbastre, will be united, is vacant, due to the death of the Reverend Father Honorius Maria ab Onaindia, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Fathers Vincent Alda and Sancho, titular Bishops of Derbe, for presentation to the Most Serene Queen Catholica, Regent.

The Cathedral Church of Tudeätin is vacant, due to the death of the Reverend Father Eugenius Luzzi, the last Bishop of that See, who died

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outside the Roman Curia, with the favor of the Reverend Father Julius Boschi, a priest of Perusia.

The Reverend Father Julius Boschi, born of legitimate, Catholic, and honorable parents in Perusia, and having surpassed his fiftieth year, having received a doctorate in sacred theology from the Roman University, has, until now, held the dignity of Pontifical Archpriest, and now has been raised to the same in the metropolitanate.

The Cathedral Church of CIVITATIS CASTELLI is vacant, due to the death of the Reverend Father Joseph Moreschi, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father Dominic Fegatelli, a priest of the Archdioceses of ferrariensis. He was born of legitimate, Catholic, and honorable parents, and of origin from the Archdioceses of ferrariensis, and was born in the city of Civitatis Plebis, and having surpassed his forty-sixth year, he was a student of the Pontifical Seminary of Pius in Rome.

[*Latin ed. p. 620*]

620 FROM THE ACTS OF THE CONSISTORY, having been added, and having received the dignity of the priesthood, and having recently been granted the doctorate in sacred theology, as well as in both branches of canon law, in the seminary of Ferrara. He served as Prefect and Deputy for Dogmatic Theology, and was appointed as one of the theological censors among the academics in Rome. He was also an Examiner for the Synod, a General Vicar for spiritual matters for the city and archdiocese of Ferrara, and until now, a Canon Theologian of the metropolitan church. The CATHEDRAL CHURCH OF FULGINATA is vacant, due to the death of the Most Reverend Vincent Sarcangeli, the last bishop of that see outside the Roman curia, by the favor of the Reverend Father Frederick Federici, a priest of the diocese of Ancona. He was born of legitimate, Catholic, and honorable parents in the town of Castri Emilia, in the diocese of Ancona, and, having reached the forty-fourth year of his age, he was appointed to the Almo College of Capranica in Rome, where he was a Doctor of Philosophy, and was chosen as a student in sacred theology. He served as one of the extraordinary members of the papal household, among the judges and examiners of the Synod, and as a visitor for the diocesan visitation. The CATHEDRAL CHURCH OF CAESENA is vacant, due to the death of the Most Reverend John Mary Strocchi, the last bishop of that see outside the Roman curia, by the favor of the Reverend Father Alphonsus Mary Vespignani, a priest of the diocese of Imola. He was born of legitimate, Catholic, and honorable parents in Imola, and, having reached the third year beyond sixty in his age, he served as Prefect of the paternal seminary of rational philosophy, and until now, as the archpriest and parish priest of Saint Lawrence, and was appointed as Chancellor for the ecclesiastical affairs of that curia, and performed the duties of a diocesan visitation vis-

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itor, and as an examiner for the Synod. The CATHEDRAL CHURCH OF LAQUEDONIA is vacant, due to the translation of the Reverend Father John Baptist Mary Diamare to the Cathedral See of Suessa, by the favor of the Reverend Father Francis Niola, a priest of the diocese of Nola. He was born of legitimate, Catholic, and honorable parents in the town of Avella, in the diocese of Nola, and having surpassed the forty-sixth year of his age, he had previously been granted the doctorate in sacred theology; he served in the seminaries of Nola, Aquinata, and Atri, where he also served as Rector, and performed the duties of the General Vicar for spiritual matters of the same diocese, and as an examiner of the clergy of Nola, and he has resigned from the position of Canon Theologian of the Cathedral of Sorana.

[*Latin ed. p. 621*]

FROM THE CONSISTORY ACTS:

The Cathedral Church of Neriton is vacant, due to the death of the Most Reverend Michael Mautone, the late Bishop thereof, who died outside the Roman Curia, with the favor of the Reverend Joseph Ricciardi, a priest of Taranto. He was born in Taranto of legitimate, Catholic, and honorable parents, and has surpassed the forty-eighth year of his age; he recently received the doctorate in sacred theology, and until now was a Canon Theologian of that Metropolitan Church; he has been appointed as a Visitor for the sacred visitation and as an Examiner for the forthcoming Synod.

The Cathedral Church of Laren is vacant, due to the translation of the Reverend Father Francis Giampaolo to the titular Episcopal Church of Cariopolis; with the favor of the Reverend Father Anthony Fione, a priest of the Barensis Archdiocesan territory. He was born in the territory of Bitrico, in the Barensis Archdiocesan territory, of legitimate, Catholic, and honorable parents, and has surpassed the forty-eighth year of his age; he has been appointed as an Examiner for the forthcoming Synod, and until now has been the Archpriest-Parish Priest in the place of his birth.

The Cathedral Church of Pacten is vacant, due to the death of the Most Reverend Joseph Mary Maragioglio, the late Bishop thereof, who died outside the Roman Curia, with the favor of the Reverend Father John Previtera, a priest of the Iaciensis Diocese. He was born in the town of Linguaeglossa, in the Iaciensis Diocese, of legitimate, Catholic, and honorable parents, and has surpassed the forty-third year of his age; until now, he was the parish priest of Linguaeglossa, and has resigned as an Examiner for his Diocese for the forthcoming Synod.

The Cathedral Church of Comen is vacant, due to the death of the Most Reverend Peter Carsana, the late Bishop thereof, who died outside the Roman Curia, with the favor of the Reverend Aloysius Nicora, a priest of the Mediolanensis Archdiocesan territory. He was born in the Mediolanensis

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territory, in a suburb thereof, of legitimate, Catholic, and honorable parents, and has reached the ninth year beyond his fiftieth year of age; he has served as an Examiner for the Synod, as a Judge, and as an ecclesiastical Censor within that Curia, and was then numbered among the honorary members of the Holy Father's [Pontiff's] Chamber.

The Cathedral Church of Lauden is vacant, due to the death of the Most Reverend Dominic Gelmini, the late Bishop thereof, who died outside the Roman Curia, with the favor of the Reverend Father John Baptist Rota, a priest of the Brixiensis Diocese. He was born in the town of Clari, in the Brixiensis Diocese, of legitimate, Catholic, and noble parents, and has surpassed the fifty-fourth year of his age; he was the pre-posit and...

[*Latin ed. p. 622*]

622 FROM CONSISTORY ACTS: The foreign vicar in the place of his birth, and the Chamberlain of the Holy See, who resides outside the city, has resigned. The CATHEDRAL CHURCH OF FESULA is vacant, due to the death of the Most Reverend Aloisi Corsani, formerly Bishop of that see, who died outside the Roman court, with the favor of the Reverend Benedict Tommasi, a priest of the archdiocese of Pisa. He, having been born of legitimate, Catholic, and honorable parents in the archdiocese of Pisa, in the city of Petra, and having surpassed the forty-ninth year of his age, having received the doctorate in both laws, has been appointed as one of the Examining Prelates for the Synod. The Metropolitan of Pisa, Canon and Archpriest, and also the General Vicar for spiritual matters of the same archdiocese, has also resigned. The CATHEDRAL CHURCHES OF AUXIMA and CINGULA, perpetually and canonically united, are vacant, due to the death of the Most Reverend Michael Seri-Molini, formerly Bishop of those sees, who died outside the Roman court, with the favor of the Reverend Father Giles Mauri, of the Order of the Friars Preachers of Saint Dominic, Bishop of Reate. The CATHEDRAL CHURCH OF APRUTI is vacant, due to the death of the Most Reverend Michael Milella, formerly Bishop of that see, who died outside the Roman court, with the favor of the Reverend Father Francis Trotta, Bishop of Ariano. The CATHEDRAL CHURCH OF MANDELEN, together with the abbatial church of Saint Savior Major, which is annexed to it, is vacant, due to the translation of the Reverend Father Lucian Saracani, of the Order of the Observant Friars Minor of Saint Francis, to the titular episcopal see of Epiphanius; with the favor of the Reverend Paul DeSanctis, a priest of the diocese of Reate. He, having been born of legitimate, Catholic, and honorable parents in the land commonly called Rigatti, in the diocese of Reate, and having surpassed the seventy-second year of his age, having recently received the doctorate in sacred theology, was appointed as a theological counselor at the meeting of bishops of Reate, held in Spoleto, by the late Bishop of Reate; he was formerly a Canon of Reate, and has now resigned; he was also chosen by the Chapter as a Secretarius, and

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is among the Visitors for the sacred visitation, the Examining Prelates for the Synod, and is numbered among the Protonotaries Apostolic of the Holy See. The titular episcopal church of EPIPHANIUS, under the Archbishop of Anazarbus, is vacant, due to the translation of the Reverend Father Joseph Machebeuf to the See of Denver, with the favor of the Reverend Father Lucian Saracani, of the Order of the Observant Friars Minor of Saint Francis, Bishop of Mandelensis. The CATHEDRAL CHURCH OF LEMOVICEN is vacant, due to the death of the Most Reverend...

[*Latin ed. p. 623*]

FROM CONSISTORY ACTS 623, with the favor of the Most Reverend Father Firmin Leon Joseph Renouard, a priest of the diocese of Amiens, concerning the nomination of the most illustrious Monsieur Francis Mary Sadi-Carnot, President of the French Republic. He, born of legitimate, Catholic, and honorable parents in the town commonly called Longprè-les-Corps-Saints in the diocese of Amiens, having surpassed his fifty-seventh year, having fulfilled the office of general vicar in spiritual matters in the same diocese of Amiens, and having been a titular canon until now in the same cathedral, has been appointed to the titular episcopal see of Nyssa, under the archdiocese of Caesarea.

The see of Vicenza is vacant, by succession of the Reverend Father Anthony de Poi to the cathedral seat, with the favor of the Reverend Father Bartholomew Bacilieri, a priest of the diocese of Verona, who was also appointed as coadjutor with future succession to the Most Reverend and Reverend Lord Aloysius, titular of Saint Marcellus of the Holy Roman City, a Cardinal Priest of Canossa, Bishop of Verona.

The Reverend Father Bartholomew Dacilieri, born of legitimate, Catholic, and honorable parents in the place commonly called Breonio, in the diocese of Verona, having surpassed his forty-fifth year, having been enriched with a doctorate in sacred theology, having served as a professor of dogmatic theology in the diocesan seminary, and having been chosen as Rector, and as President of the confraternity of the staff of Saint Peter, having been added among the pro-synodal examiners, and having been a canon of the Church of Verona until now, has been appointed to the titular episcopal see of Amathus, under the archdiocese of Scitopolis.

The see is vacant by the translation of the Reverend Father Francis Cassetta to the titular archiepiscopal see of Nicomedia, with the favor of the Reverend Father Dominic Taccone-Gralluccì, a priest; who was also appointed as coadjutor with future succession to the Reverend Father Philip De Simone, Bishop of Nicotera and Tropea.

The Reverend Father Dominic Taccone-Gralluccì, born of legitimate, Catholic, and noble parents in Miletus, and having reached his thirty-sixth year, having been granted a doctorate in sacred theology some time ago, having served as a professor and deputy for sacred disciplines in the

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family seminary, as a diocesan visitor, as a promoter of the fiscal office, as a pro-synodal examiner of Miletus, and also as an examiner for the diocese of Nicotera, has been appointed to the titular episcopal see of Ascalon, under the Patriarch.

[*Latin ed. p. 624*]

624 FROM THE CONSISTORY ACTS: The See of Jerusalem, vacant through the translation of Reverend Father Dominic Leo Meürin to the titular episcopal Church of Nisiben, with the favor of Reverend Dominic Mary Valensise, a priest of the Diocese of Miletus, who was also appointed as a coadjutor with future succession to Reverend Father Hyacinth Mary Barberi, of the Order of Preachers, Bishop of Neocastrensis. Reverend Father Dominic Mary Valensise was born in the town of Polistena in the Diocese of Miletus, of legitimate, Catholic, and noble parents, and has surpassed his fifty-first year. He previously received a doctoral degree in theology, and was associated with the esteemed College of Theologians in Naples, among numerous academic colleagues, and was also numbered among the pro-Synodal Judges. He has now relinquished his position as spiritual director of the archisodality of the Most Holy Trinity, and as a canon of the distinguished collegiate church of his homeland.

The titular episcopal Church of Europen, under the Archbishop of Hierapolis, is vacant through the translation to the united Churches of Ampuria and Templa of Reverend Father Paul Pinna, with the favor of Reverend Mariani Supervia and Lostalé, a priest of the archdiocese of Caesaraugusta; who was also appointed as a coadjutor to the Most Reverend and Illustrious Lord Francis a Paula, titled Saint Peter in Monte Aureo of the Holy Roman Church, a Cardinal Priest of Benavides and Navarrete, Archbishop of Caesaraugusta. Reverend Father Mariani Supervia and Lostalé was born in the place commonly called Tauste, in the archdiocese of Caesaraugusta, of legitimate, Catholic, and honorable parents, and has surpassed his fifty-third year. He previously received a doctoral degree in sacred theology, and has diligently applied himself to ecclesiastical duties, especially in preaching the Word of God, even during the quadragesimal season. He obtained the benefice of Pilar in the temple of Caesaraugusta, and at one time administered the Churches of Saint Lawrence and the Holy John and Peter there. He is currently holding the office of treasurer in the metropolitan church.

The titular episcopal Church of SINOPEN is vacant through the death of the Reverend Aloysius Vaccari, the last Bishop of that See to die outside the Roman curia, with the favor of Reverend Augustine Marchai, a priest of the Diocese of Saint Deodatus; who was also appointed as an Auxiliary to Reverend Father John Joseph Marchai, Archbishop of Bituricensis. Reverend Father Augustine Marchai was born in the town commonly called Raon-VEtape in the Diocese of Saint Deodatus, of legitimate, Catholic, and honorable parents, and has reached his sixty-fourth year. He is the General

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Vicar in spiritual matters of Bellicensis.

[*Latin ed. p. 625*]

FROM THE CONSISTORY ACTS 625 and until now, he was the General Vicar for the archdiocese of Biturigen, and he had also resigned from his position as a Canon of the Metropolitan Chapter. The titular episcopal church of AREOPOLITAN is vacant, due to the translation of the Most Reverend Francis Giordani to the Cathedral See of Alatri, in favor of the Reverend Gabriel Szele, a priest of the archdiocese of Agriensis, who had also been appointed as an Auxiliary to the Most Reverend Joseph Samassa, the Archbishop of Agriensis. The Reverend Gabriel Szele, born of legitimate, Catholic, and honorable parents in the town of Yaszbereny, district of Yaxygia, in the archdiocese of Agriensis, and having surpassed his sixty-fourth year, has resigned from his position as General Vicar for spiritual matters and as Auditor of causes in that archdiocese. The titular church of PHILADELPHIEN, under the Archbishop of Boston, is vacant, due to the translation of the Reverend Henry Joseph Reed da Silva to the Cathedral See of Saint Thomas of Melapor, in favor of the Reverend John Baptist Assmann, a priest of the archdiocese of Olomucensis. The Reverend John Baptist Assmann, born of legitimate, Catholic, and honorable parents in the village of Branitz, in the archdiocese of Olomucensis, and having reached his fifty-fifth year, was appointed to the parish of Saint Mauritius in Wratislavia, and until now, he held the dignity of Prefect and Archpriest of the Church of Saint Hedwig in Berlin, and was also counted among the six Canons of the Chapter of Wratislavia. He had previously served as the delegate of the late Prince-Bishop of Wratislavia for Merzig and Pomerania. The CATHEDRAL CHURCH of VESZPRIMIEN is vacant, due to the death of the Very Reverend Sigismund Kovács, the last Bishop of that diocese, who died outside of Rome, in favor of the Reverend Charles Liber, Baron de Hornig, a priest of the archdiocese of Strigoniensis, by the nomination of His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary. The Reverend Charles Liber, Baron de Hornig, born of legitimate, Catholic, and honorable parents in Budapest, in the archdiocese of Strigoniensis, and having surpassed his forty-seventh year, having previously been awarded a doctorate in sacred theology, served as Director of the Chancery of the archdiocese of Strigoniensis, and until now, he had resigned from his position as a Canon of the Metropolitan Chapter, and has been appointed as an honorary member of the Holy Father's retinue outside of the city. The titular archiepiscopal church of NAUPACTEN, Acts, Volume XX, page 240, is vacant, 40 per...

[*Latin ed. p. 626*]

626 FROM THE ACTS OF CONSISTORY: The death of the Most Reverend Anthony Sbrolli, the last of that Archbishop, who died near the Ro-

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man Curia, is reported by the Reverend Father Francis Satolli, a priest of the archdiocese of Perugia. The Reverend Father Francis Satolli, born in the place commonly called Marsciano in the archdiocese of Perugia, from legitimate, Catholic, and honorable parents, having surpassed the forty-eighth year of his age, obtained a doctorate in philosophy at the Roman University, and at the Catholic University of Laval, he received the degree of licentiate in sacred theology with honors. In his homeland, he served as a prior and parish priest, and then he gave lectures in philosophy in his archdiocesan seminary, and in theology in the Pontifical Roman Seminary. He also served as a professor of sacred theology at the Pontifical College of Urban, belonging to the Congregation for the Propagation of the Faith, and at the Pontifical University of Ecclesiastical Law, as well as having been Rector of the Greek-Ruthenian College. He was also a consultant to the sacred congregations of the Index, Studies, and the Roman Universal Inquisition, and a member of the academies of St. Thomas in Perugia, the philosophical-medical academy of the same in Bologna, and the Roman academy of Aquinas. He had previously served as the Canons of the Lateran Basilica, and as President of the Association of Noble Clerics.

THE CATHEDRAL CHURCH OF CÓRDOBA, in the jurisdiction of Argentina in South America, is vacant, due to the death of the Most Reverend John of Capistrano Tissera, the last of that Bishop, who died outside the Roman Curia, reported by the Reverend Father Reginald Toro, a priest of the Order of Preachers of St. Dominic, of the diocese of Salta. The Reverend Father Reginald Toro, born in the diocese of Tucumán in Salta, from legitimate, Catholic, and honorable parents, having surpassed the forty-eighth year of his age, having professed in the Order of Preachers of St. Dominic, and having been ordained a priest and previously endowed with the office of master in sacred theology, having given lectures in sacred theology in several places, and having twice renounced his office in his Order's Province.

THE CATHEDRAL CHURCH OF CATTARO is vacant, due to the death of the Most Reverend Casimir Forlani, the last of that Bishop, who died outside the Roman Curia, reported by the Reverend Father Tryphon Radonicich, a priest of the diocese of Cattaro, by the nomination of the Most Sacred Majesty of King Francis Joseph I of Austria, King of Bohemia and Hungary, and also King of the Kingdom of Dalmatia, by the force of an Apostolic Indult. The Reverend Father Tryphon Radonicich, born in the place commonly called Perzania, or Persagno, in Cattaro, from legitimate, Catholic, and honorable parents.

[*Latin ed. p. 627*]

From the Consistorial Acts: At the age of sixty-two, having surpassed forty-eight years, the Alumnus of the Pontifical Urban College, having been appointed by the Congregation of Propaganda Fide, and there having re-

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ceived Holy Orders and a doctorate in sacred theology, formerly a parish priest and dean appointed near Nové Zámky in the diocese of Cattaro, has now renounced his position as a Canon in the Cathedral. Having been chosen by the Most Holy Father from among his most intimate advisors, he serves as a judge for the Pro-Synodal Examinations, in the Curia, and also for matrimonial causes, as a counselor.

The Cathedral Church of Arian, vacant, *due to the translation of the Reverend Father Doctor Francis Trotta to the Aprutine See, with the favor of the Reverend Father Andrew d'Agostino, a priest of Avellino, from the Congregation of Missionaries.* The Reverend Father Andrew d'Agostino, born of legitimate, Catholic, and honorable parents in Avellino, and having surpassed his forty-ninth year, having devoted himself from his youth to the Congregation of Missionaries of St. Vincent de Paul, and having completed his studies there in the sacred disciplines. He taught for many years successively in the Minor Seminaries of Aquinate, Cologne, Algiers, and Nice, near Lavaur, and in several sciences, and has now renounced his position as Superior of the Mission House of Altea, and has been appointed as a Pro-Synodal Examiner there.

The Cathedral Church of Popayán, in the Neogranatin diocese of America, is vacant, due to the death of the Most Reverend Charles Bermúdez, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father John Bonaventure Ortiz, a priest of the Society of Jesus of Bogotà. The Reverend Father John Bonaventure Ortiz, born of legitimate, Catholic, and honorable parents in Bogotà, and having surpassed his forty-seventh year, having served as Coadjutor Parish Priest of San Gil, and then appointed as Parish Priest of the city of Zipaquirà, he was appointed as Director of the diocesan seminary for Latin and Spanish grammar, physics, and mathematics, and in other institutions of physics, philosophy, and civil law. He has now renounced his position as Parish Priest of the Church of Bogotà in the Republic.

The Cathedral Church of Pharen, vacant, due to the death of the Most Reverend Andrea Illieh, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Fulgentius Czarev, of the Order of the Friars Minor Observant of St. Francis, Archbishop of Skopje, by the nomination of His Sacred Caesarean Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary, also King of Dalmatia, by virtue of an Apostolic Indult.

[*Latin ed. p. 628*]

€28 FROM THE CONSISTORY ACTS: Other sees were added by the most recent secret Consistory through Apostolic Letters in the form of a Brief: The Metropolitan Church of Rheims, vacant due to the resignation of Reverend Father Francis Convert, of the Order of the Friars Minor Observant of Saint Francis, who, willingly and with great pleasure, relinquished

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his office into the hands of HIS HOLINESS, and was accepted by the same, with the favor of Reverend Father January Portanova, Bishop of Isola, who was promoted to the aforementioned metropolitan see by the Apostolic Letters in the form of a Brief, most recently. The Archiepiscopal Titular Church of Chalcedon, vacant due to the succession of Reverend Father Henry Altmayer, of the Order of the Preachers, to the Archiepiscopal See of Babylon, with the favor of Reverend Father Severus Garcia, who is now the retiring Bishop of the Cathedral Church of Tunja in the United States of Colombia. The Archiepiscopal Title of Cabassa was conferred upon Reverend Father William Ullathorne, the retiring Bishop of the See of Birmingham. Reverend Father John Ireland, Bishop of Saint Paul of Minnesota in America, had renounced the Archiepiscopal See of the same diocese, recently enriched with metropolitan jurisdiction. Reverend Father James Naamo, who had bid farewell to the See of Serta, assigned the titular Church of Bassora in Arabia. Reverend Father Edward Ilsley had transferred the titular Church of Fesse to the See of Birmingham. The Cathedral Church of Saint Savior in Central America, vacant due to the death of the Very Reverend Aloysius Cárcamo and Rodriguez, the last Bishop of that see to die outside the Roman Curia, with the favor of Reverend Father Anthony Adolphus Perez, a priest of Saint Savior. Reverend Father Anthony Adolphus Perez, born of legitimate, Catholic, and honorable parents in the city of Saint Savior, and having reached the forty-ninth year of his age, having exercised the ministry of souls, either in Guatemala within the metropolitan province, or in his own homeland, appeared before the tribunals of the Republic of Guatemala as an Advocate, and served as Professor of Holy Scripture in that Pontifical University, and also performed the duties of the Promoter of the Fiscal Office of that Archiepiscopal Curia, and has now renounced his position as Canon Theologian of Saint Savior. Reverend Father John Lemmens provided for the Church of Vancouver.

[*Latin ed. p. 629*]

FROM THE CONSISTORY ACTS 629: The Reverend Patrick O'Donnell was appointed Prefect of the Church of Raphoe. The Reverend John Lyster was appointed to the Academic See. The Reverend Edward Mac-G-ennis was appointed Bishop of Kilmore. The Episcopal title of the Church of Messene was assigned to the Reverend Leon Haid, of the Order of St. Benedict, Apostolic Vicar of North Carolina. For the Reverend Adrian Peter Simon, Apostolic Vicar in Upper Burma, provision was made for the titular Church of Domitipolis. The Church of Caesarea was granted as a titular see to the Reverend Felix Midon, Apostolic Vicar in Central Japan. The Reverend Lewis Raguit was appointed titular Bishop of Tranopolis, for the Apostolic Vicariate of Manchuria. The Reverend Thomas Wilkinson was appointed as an Auxiliary Bishop to the Bishop of Hexham and Newcastle, with the titular Church of Cisamus. Finally, provision was made for the

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Pallium for the Metropolitan Churches of Regina, St. Paul of Minnesota, and Babylon, for the Reverend Henry Altmayer, of the Order of Preachers, who had obtained the aforementioned Church through a perpetual coadjutorship, and also for the Metropolitan Church of Armagh, for the Reverend Michael Logue, who succeeded the deceased Bishop through a perpetual coadjutorship. FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS, CONCERNING THE JURISDICTIONAL RIGHTS OF ECCLESIASTICAL SOCIETIES, March 9, 1888. DECREE. The Archiconfraternity called "of Mercy," in the city of Pistoia, was established, dating from March 25, 1767, as Anthony Rosati, a member of the same Archiconfraternity, together with certain confreres and novices, founded a society under the title of the Dead Christ, which was accustomed to hold a three-year procession every six years on Holy Saturday, and to perform other religious functions at its own expense. It was also approved that an image of the Crucifix be placed above the altar of the oratory of St. Lawrence, in the parish church.

[*Latin ed. p. 630*]

630. The town of Fuorcivitas, belonging to the parish of Saint John, was reached, where the Archiconfraternity had resided since the year 1714. Finally, at the urging of the aforementioned Anthony Rosati, the same Archiconfraternity, by resolution of May 5, 1794, granted the society the faculty of receiving, in the name of the Archiconfraternity, the offerings of the priory, which were to be used for the benefit of the society itself, as well as the right to print its own statutes at its own expense, provided that only brothers and novices of the Confraternity of Mercy were admitted to the society. From the earliest years, the society undertook the obligation of maintaining a representation of the deceased Redeemer, of holding a procession every three years, and of honoring it annually with expositions on the Friday before Easter. Moreover, in order to assist the Archiconfraternity, the society paid half of the salary assigned to the sacristan and caretaker of the church, provided daily expenses for oil for the lamps, contributed to the expenses for procuring sacred vessels, and contributed to the expenses for festivals and extraordinary functions that the Archiconfraternity was obliged to carry out. With these and other more significant contributions made by the society to the Archiconfraternity, great peace existed between the Archiconfraternity and the society, which seems to have lasted until the year 1884. However, at this time, the operations of the Archiconfraternity began to be disturbed, because it occurred to its administrators to acquire and lend a mortuary couch to families in need, which had previously been provided only by the society. In order to prevent such innovations, negotiations were initiated for a friendly settlement, but these failed, because the Archiconfraternity refused to recognize the aforementioned

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society any longer; the society, having been warned by the ecclesiastical court, brought the Archiconfraternity before the civil authority. This put an end to the dispute, separating the two entities from each other and declaring them independent of each other. The society, pleased with this outcome, with the consent of the parish priest of Saint John,

[*Latin ed. p. 631*]

PISTORIEN. 631 Having resided outside the city, it decided to transfer its proper seat to that oratory, in which the image of the dead Jesus had been publicly exposed for veneration from its origin, which, according to a decree of the year 1849, ought to have been abandoned, because in its place the monastery of the Abandoned, with its church, had been entrusted to the Archconfraternity by civil authority. However, it was unable to bring this matter to fruition, due to the unwillingness of the Archconfraternity, which, under the pretext that the sacred image belonged to it by right of property, refused to hand it over to the Society. Indeed, it altered the lock of the tabernacle in which the sacred image was kept, and, with the doors closed, forbade those belonging to the Society to enter the church. Under these circumstances, the President of the Society, having recourse to appropriate remedies, appealed to the Sacred Congregation for the Eastern Churches, which requested information and an opinion from the Bishop, as if concerning a matter of morals.

Disputation Synoptica, CONCERNING THE RIGHTS OF SOCIETIES. The Society of the Dead Jesus maintains that the sacred image belongs to it by right of property; it is observed, above all, that it is an undeniable fact that this sacred image is frequently mentioned in its own inventories. Conversely, in the inventories of the Archconfraternity, neither a word nor a trace can be found from which it can be proven that the aforementioned image belongs to it. Furthermore, it presents a resolution of November 20, 1801, in which it is stipulated that the consent of the Society should be sought whenever the image of the dead Jesus was to be displayed for public veneration, and that the tabernacle in which the sacred image was kept should be secured with a lock and two keys, one to be kept by the President, and the other by the treasurer of the Society, and that both keys have been continuously held by members of the Society until the present day. This is also evident from two resolutions, one of the Archconfraternity of March 25, 1777, and the other of the same Society of May 11, 1795, in which it is written...

[*Latin ed. p. 632*]

632. It is reported that the sacred image was acquired by Anthony Rosati, not with his own funds, but with money collected among the members. Hence, it is not surprising that, in consequence of such resolutions, during a meeting held by the society on March 22, 1839, silence was imposed upon

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a certain Canon Reginald Rosati, who seemed intent on claiming ownership of the image. Furthermore, it is evident from the fact that, on July 18, 1842, after the sacred image was placed in the church in the new building, the Bishop, after performing the sacred function, handed the key of the tabernacle to the president of the society, and ordered a public declaration to be made, whereby it was declared that the sacred image belonged to the Society. To all of this must be added the fact that the society, for over a hundred years, has borne the expenses of the cult, celebrated feasts, and held processions in honor of the Redeemer, and that the Archiconfraternity has never interfered, nor dared to object to anything. Indeed, the Archiconfraternity itself has requested permission and the opportunity from the society, whenever it wished to celebrate a feast before its altar, after the sacred image was discovered. Therefore, from the facts presented, it is clearly evident that the sacred image belongs to the society by right of ownership, and it is superfluous and unnecessary to produce testimony whereby the priest Spagnesi, who at that time was the only surviving member of the old society, declared that the sacred image had been acquired with the funds of the society itself, on June 14, 1824.

RIGHTS OF THE ARCHICONFRATERNITY. On the other hand, it is noted that, with the favor of the Archiconfraternity, it is not clearly established whether the sacred image, which is the subject of this matter, belongs to the pious society, or rather to the Archiconfraternity itself. In this doubt, it should be held that it belongs to the Archiconfraternity, since this has always been considered as the mother of the pious society. However, even if it were clearly manifest.

[*Latin ed. p. 633*]

PISTORIEN. The property of the sacred image belongs to the pious society; nevertheless, its translation to another church is not to be permitted, because, as the Bishop reports in his information sent to the Holy Office, said translation would disturb peace and harmony, and would give rise to very serious inconveniences and evils. With these matters presented, the following questions were proposed for the prudent judgment of the Most Eminent Fathers: I. To which of the two confraternities does the image of the dead Jesus belong in this case? II. How is provision to be made in this case?

RESOLUTION. After discussion by the Sacred Congregation of Bishops and Regulars, it was decided on March 9, 1888, to respond as follows: To I, with a favorable vote for the society commonly called "del Gesù morto." To II, provision is to be made in the first manner, and the aforementioned to be explained to the Reverend Father Bishop (1).

(1) The Holy Congregation of Bishops and Regulars, in its meeting on the 9th of the current month, considered it advisable to resolve the noted controversy that arose between the Archconfraternity called "Misericor-

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dia" and the pious society under the title of "Jesus Dead," existing in this diocese. After the Fathers have determined that the property of the image, concerning which the question arose, belongs to the pious society, they ordered me to write to Your Lordship, so that Your Lordship may take care to reconcile the members of the pious societies, in order to avoid the scandals that could arise from discord. Regarding this matter, Your Lordship will inform the members of the Archconfraternity that their presumptuous claim to the image, or their hindering of its use by the pious society, is entirely contrary to justice, and cannot in any way be admitted or tolerated. Therefore, to the aforementioned society, one of two things remains: either to readmit the society "del Gesù morto" into its church, granting it all the rights it has used up to this time, or to hand over the sacred image to it, so that it may place it in the church that the society chooses for its seat. Furthermore, Your Lordship will inform the aforementioned members of the Archconfraternity that they must respond to the Holy Congregation for all the evils that their opposition has caused by providing an opportunity or reason for the mandates given by the Sacred Congregation.

[*Latin ed. p. 634*]

634 FROM THE DECREE OF THE HOLY CONGREGATION OF INDULGENCES, BY WHICH THE INDULGENCE OF FIFTY DAYS IS GRANTED TO THE FAITHFUL, IN EACH INSTANCE, THOSE WHO RECITE THE FOLLOWING PRAYER: "My God and all."

Most Reverend Father Bruno, of Vintia, General Procurator of the Order of the Capuchin Friars, kneeling humbly before Your Holiness, at the request of the students of the same Order, especially those residing in the province of Bavarica, begs that Your Holiness would deign to grant a certain Indulgence to all the faithful of both sexes who devoutly recite the following prayer – "My God and all" – which was very familiar to the Seraphic Father, Saint Francis of Assisi, and which is also opportune and salutary for exciting a more fervent love of God in the faithful. For which grace, etc.

From an Audience granted by His Holiness on the 4th of May, 1888.

His Most Holy Lord, Pope Leo XIII, has benignly granted to all the faithful of both and sexes, in each instance, upon reciting the aforementioned prayer with at least a contrite heart and with devotion, the Indulgence of fifty days, applicable also to the souls of the departed. This decree is valid forever, without exception, notwithstanding any contrary provisions.

Given at Rome, from the Secretariat of the Holy Congregation for Indulgences and Sacred Relics, on the 4th of May, 1888.

S. CARD. VANNUTELLI, Prefect.

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L. & S. ALEXANDER, Bishop of Oenensis, Secretary.

[*Latin ed. p. 635*]

638 A SUMMARY OF THE DOCUMENTS IN THIS VOLUME. Letters from His Holiness Pope Leo XIII to His Eminence Cardinal Mariano Rampolla, Secretary of State. . . p. 4 Letters from His Holiness Pope Leo XIII to the Archbishop of Goa and other Archbishops and Bishops of Eastern India. » 161 The Letters of His Holiness the Pope, Leo XIII, by which the last Sunday of September of this year is established as a day of great penance, for the support of souls detained in Purgatory. p. 4 1 7 Letters of the same Pontiff, in the form of a Brief, concerning the priestly Jubilee. » 215 Letters of His Holiness Pope Leo XIII, by which all local Ordinaries are commanded to commend the needs of the Holy Land to the charity of the faithful in each parish church, at least once each year. » 419 Letters of the same Pontiff, in the form of a Brief, to Anthony Brugidon, director of the universal Sodality for the reparation of the offenses of the Catholic nations. » 217 The Letter of His Holiness Pope Leo XIII to the Bishops of Brazil, concerning the freedom granted to many who had been held in the yoke of servitude in that empire. » 545 Letters of the same Pontiff, to the Archbishops and Bishops of Bavaria. » 257 Letters of His Holiness Pope Leo XIII concerning the monument constructed in Barcelona, in memory of Christopher Columbus, by the Association-Centro Colegio. . . » 5 5 9 Letters of His Holiness Pope Leo XIII to the Bishops of Italy, concerning the Most Holy Rosary. » 209 Letters of the same Pontiff, to the Bishop of Plasencia, concerning the institute of sacred men who, compelled by the necessities of things, go forth from Italy to provide the assistance of the sacred ministry in America. » 3 0 5 Letters in the form of a Brief, by which His Holiness grants that Patriarchs, Archbishops, and Bishops may use a violet-colored biretta. » 3 6 9 Encyclical Letters of His Holiness Pope Leo XIII, by divine providence, to the Patriarchs, Primates, Archbishops, and Bishops of the entire Catholic world, concerning human liberty. .....» 593

[*Latin ed. p. 636*]

630 SUMMA ACTO K I; M EX S, CONGREGATIONE CONCILII Calaritana seu Uxellen. concerning excardination and nomination; excardination is denied and the nomination of a penitential canon is disapproved, made concerning a priest of another Diocese. . . » 28 Vivarien. concerning the application of the second Mass; two doubts are resolved concerning the application of the second Mass on the day of marriage. . . . . 35 Lucana parochialis; the translation of the parish seat to another church within the same territory is denied. » 41 Urgellen, concerning the reduction of burdens and the union of benefices; the reduction of burdens and the requested union of benefices are granted. . . . . 50 Pacten, concerning patronage; patronage over the parish church belonging to Caesar d'Orioles is

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granted, who promised to restore it, and to add 150 livres annually, to be paid to the parish priest. » 65 Parisien, concerning marriage; a dispensation is granted concerning a marriage that is valid but not consummated. . . . . 71 Melevitana concerning dotal subsidies; to two girls, who were established in their seventieth year and who are averse to marriage, it is permitted to enjoy half of the dotal subsidy, which they previously received. » 79 Varsavien, concerning marriage; a dispensation is granted concerning a marriage that is valid but not consummated. . . . » 82 Pisauren. concerning funerals; for resolving questions raised concerning funerals, it is decided that the agreement of the year 1707, modified by the concord of the year 1886, must be observed. » 91 Aesina concerning administration; a dispute arises between the Chapter and the Prior concerning which has the right to keep the seal, granted to the Prior by the public treasury, whose goods have already been sold. » 113 Firmana concerning the imposition of a burden; the Holy Congregation refuses to add the burden of the care of souls to the endowment, to which the founder had imposed only the obligation of celebrating 50 Masses within a year. » 121 Premislien. concerning opposition to a sentence of nullity; opposition to the nullity of sentences issued by the episcopal court is not admitted by a parish priest who has been removed from his parish. » 126 Isolana concerning dispensation; the patrons of canonries request the grace of a dispensation from undergoing examination for those petitioning for these benefices, so that they may not remain vacant for long, as they are very poor. » 142 Melevitana concerning the commutation of a will; the grace of converting a will into a charitable subsidy, to be distributed among the heirs, is denied, a small sum having been established for the stipends of Masses. » 148 Agrigentina concerning a will; in a will, amended in favor of the Church, the heirs of the testator seek to be able to retain, with a safe conscience, two-thirds of the inheritance.

[*Latin ed. p. 637*]

SUMMA of realities, promising the restitution of goods for two legacies: "150 Lycien. Concerning the patronage of the Church, the patron acts to maintain the right of access to the Church through the inner door, and the use of the oratory." 157 Varsavien, concerning a dispensation for marriage; a dispensation is granted by the Roman Pontiff regarding a marriage that has been consummated. 162 Alexandrina, concerning parochial rights and appeals; the matter concerns a financial question regarding the parochial rights between two pastors, whose parishes do not have a separate and distinct territory. 166 Pampilonen, concerning the conversion of Church property into satisfaction for various burdens; the Bishop's authority to distribute certain revenues among the canons is remitted, with the obligation of celebrating a certain number of Masses in satisfaction of the burdens. 178 Concerning the Order of the Calced Carmelites on the Philippine Islands, concerning the transfer of a legacy; it is granted to the Fa-

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thers of St. Augustine to fulfill a pious legacy in a place different from that which the testator had designated. 181 Melevitana, concerning the redemption of a legacy; the requested partial redemption of the legacy is denied. 184 Augustana, concerning irregularities, suspension, and deprivation, in a parish; the pastor is granted absolution from irregularity and suspension, provided that he first recedes from the parish. 189 Albanen, concerning the service of the choir; the matter is between the canons of ancient and newly established foundations regarding the measure by which the latter are obligated to take turns in the service or the choir. 225 Nucerina, concerning excommunication; for the sake of granting favor, the priest Andreae Blasi is granted excommunication from his own diocese. 306 Bergomen, concerning a settlement; it is decided that the Bishop's judgment, by which the heirs of the deceased Bishop were condemned to relinquish a certain amount of property, so that, according to the extent of the inheritance, they might release the debt contracted for the construction of a new church, is to be amended. 312 Nuscana, concerning construction on an oratory; it is granted to the oratory to be able to build on the oratory, but under certain conditions. 319 Montisalti, concerning the payment of a pension; it is decided that the pension to the economist or vice-pastor must be paid, although it is alleged that the revenues of the parish are barely sufficient for the life of the Archpriest. 321 Pacten, concerning marriage; it is resolved that the marriage is null, despite the impediment of the second degree of consanguinity. 327 Mediolanen, concerning a benefice; for the sake of granting favor, it is granted that the benefice be converted into a manual chaplaincy, to be assigned to a removable presbyter at the discretion of the Ordinary, with the obligation of assisting the pastor. 336

[*Latin ed. p. 638*]

638 SUMMA: Concerning Pergulano; it is debated whether the patron or the chapter has the right to nominate to the vacant Archdeacon's office.

336 Ventimilien: Regarding a dispensation from irregularity; a priest, to whom the left hand had to be amputated due to a wound, is restored to the celebration of the Holy Sacrifice of the Mass, at the discretion and conscience of the Bishop.

343 Bellmen: Concerning betrothals; it is granted, under certain conditions, that the removal of an impediment does not prevent the marriage from taking place.

370 Firmana: Concerning a mortgage guarantee; it is not permissible for the petitioner to contract a loan, giving as collateral a mortgage on the goods of an ecclesiastical benefice.

378 Augustana: Regarding a dispensation from irregularity; a dispensation is granted to a cleric who has suffered a diminution of his visual acuity.

380 MelevUana: Concerning the commutation of will or the constitution

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of sacred patrimony; it is not permissible for one to establish a sacred patrimony in part of a legacy for Masses.

383 Reginen: Concerning the reduction of a pension; for the sake of piety, it is granted to the chapter to be able to reduce the pension paid to the archpriest.

385 Panormilana: Concerning marriage; it is decided that a marriage is null and void on the grounds of force and fear.

423 ACTORUM Regien: Concerning the care of souls; the question is raised whether the Praepositura is attached to the actual care of souls, so that the one named to it is held to be subject to examination for suitability according to the form of the Council of Trent.

443 Tranen: Concerning an emphyteutic contract and absolution; the emphyteutic contract is validated, and the burdens are reduced.

445 Oppiden: Concerning the reading of the sacred Scriptures; the matter concerns the number of readings to which a canon theologian is bound; the penalty to be imposed for the omission of readings; the obligation of the chapter to attend these readings, etc.

457 Lauretana: Concerning legates and their participation; the previous decision is confirmed, by which it is permitted to the parishes to admit all legates, and perpetual silence is imposed on those who oppose it.

481 Ostunen: Concerning betrothals; it is debated whether there is a place for the removal of an impediment.

492 Ugentina: Concerning a matter already judged and its execution; it is established, after much legal wrangling, that the agreement, previously freely entered into, must be observed by the parish priest and the parishioners, so that the rights of each litigant are equitably preserved.

497 Fanen: Concerning the faculty of binning; the faculty of binning is extended for three years.

515 Melevitana: Concerning the prosecution of appeals in fatal cases; it is not permitted to the judge.

[*Latin ed. p. 639*]

SUMMARY OF DECREES concerning the shortening of the two-month term for pursuing appeals... 5 1 8 Milan, concerning burdens; it is asked whether the arrangement for performing sacred duties on festive days includes the burden of application. 5 2 5 Camerino, concerning the change of will; direct prayers to modify a pious will are rejected. 5 3 0 Gaeta, concerning the change of a legate; the change of a legate is permitted, provided it is done promptly, by means of money, to the benefit of the pious cause. 5 3 2 Todi, concerning absolution, the reduction of burdens, and benefits; patrons are permitted to appeal to the Bishop for a composition regarding the reduction of benefits. 5 3 6 Paris, concerning marriage; a dispensation for marriage is granted, since it is only valid and not consummated. 5 6

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0 From the Congregation of Bishops and Regular Canons, Hvar-BraÄ-Vis and Spalato, concerning jurisdiction, administration, and substitution; a threefold question is raised concerning a hermitage erected in the Diocese of Hvar-BraÄ-Vis by priests of the Diocese of Spalato. 5 3 Tricarico, or of the Order of Minor Reformers; concerning the validity of a convention and association for funerals: a question is raised between the Minor Reformers and the parish priest concerning the association and funerals. 6 3 9 Concerning the funeral rites of brothers of the Third Order of St. Francis. 1 0 0 Janua, or of the Congregation of St. Benedict of Monte Cassino; concerning the transfer of a parish and compensation; the faculty to transfer the parish is denied, with the Benedictine Order objecting, in order to protect its rights over the same parish. 2 7 2 Spoleto or Rieti, concerning the right to cast a vote; a question is raised between parish priests of the same city concerning the casting of a vote for the execution of legacies, entrusted to those same parish priests by a pious testator. 2 7 8 Aberdeen, concerning a financial matter between the English Congregation of the Order of St. Benedict and the Abbey of St. Benedict, Fort-Augustus, Scotland; since this Abbey had been declared independent by the Holy Father, various Anglo-Benedictine monks request that the sum paid for the construction of the same Abbey be restored to them. 2 8 4 Rome or Tusculum, concerning the right of passage; it is disputed whether the Capuchins have a right of servitude through the Villa Rufinella. 3 4 6 Spoleto or Rieti, concerning the right to cast a vote; the resolution given in another seat of JUDGMENT is confirmed, and a method for maintaining it is added. 5 3 8 Iacen, concerning exemptions and parochial rights regarding funerals; it is asked whether the church of the Oratory is exempt.

[*Latin ed. p. 640*]

640 Concerning those who act as assistants to the parochial jurisdiction, they have the right to perform funeral rites and to carry the deceased in a coffin to the cemetery, etc.

580 Concerning the rights of Sodalities: It is asked to which of two Sodalities an image of the dead Jesus belongs.

629 Sodalities under the title of the Annunciation of the Blessed Virgin Mary, as well as Sodalities of the Holy Death, established in various places, cannot enjoy the Indulgences and privileges granted to them, unless they have been incorporated into the respective primary Sodalities existing in the Eternal City.

364 From the Sacred Congregation of Indulgences: A decree concerning the Indulgences granted to those who recite the small Office of the Blessed Virgin Mary.

365 Decrees of Mechlin and Vicenza: Concerning the Indulgences and privileges granted to the pious work of the propagation of the Faith.

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60 Decrees of several Dioceses: Various doubts.

63 Decree: Of the Society of Jesus, concerning Confraternities.

108 Decree of Verona: Concerning the affiliation of members of religious institutes to the Third Secular Order of St. Francis of Assisi.

111 Decree: Concerning the extension of an Indult previously granted by Pope Clement XIII on August 2, 1760, to all Confraternities, Sodalities, or Congregations.

207 Decree: Concerning the extension of the declaration issued on August 19, 1714, for the Confraternity of the Most Holy Rosary, to the Confraternities of the Most Holy Trinity, of the Blessed Virgin of Mount Carmel, and of the Seven Sorrows.

253 Rescript: Granting an Indulgence of two hundred days, to be gained once a day, by reciting the prayer annexed to the feast of St. Vincent.

255 Sodalities under the title of the Blessed Virgin Mary, named "Salus," as well as those of St. Joseph and St. Camillus de Lellis, established in various places, cannot enjoy the respective Indulgences and privileges, unless they have been incorporated into the Arch-Sodality of the same name and institute existing in the Eternal City.

367 Rescript: Granting an Indulgence of three years, to be gained once a day, to the faithful who recite the prayer of the Angelic Doctor, St. Thomas Aquinas.

411 Decree of the City and the World: Granting Indulgences for the entire month of November to all the faithful, for pious exercises to help and comfort the souls in Purgatory.

413 Rescript: Granting an Indulgence of three hundred days to those who recite the hymn "Ave Maris Stella."

477 Rescript: Granting an Indulgence of fifty days.

[*Latin ed. p. 641*]

SUMMA ACTORUM: While chanting Psalm 64, "De profundis," 471. Decree by which it is declared that it is safe to proceed to... » 477. Rescript, by which plenary indulgence is granted, to be obtained once within the month of September, to the faithful who devoutly recite the seven canonical hours of the canonization of the seven founders. » 240. Decree concerning India, or Carthage, for those who, throughout the entire month, piously recite the Office of the Blessed Claver, Priest. » 478. Sodalities under the title and invocation of the Blessed Virgin Mary of Perpetual Help, and of the Society of Jesus, established in all places, and the scholastic succurs of Saint Berchmans, and of Saint Alphonsus M., cannot enjoy the indulgences and privileges of which the Arch-sodality of the same name, in the Society of Jesus, enjoys, unless they are aggregated to that Arch-sodality. » 356. Compendium of the life, virtues, and miracles, and also of the acts in the cause of canonization of the Blessed John Ligorio, everywhere established.

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» 479. Rescript, by which it is granted to the faithful who, on each occasion, recite the ejaculatory prayer "Deus meus et omnia," a plenary indulgence. » 634. FROM THE HOLY CONGREGATION OF RITES: The Office and Mass of Blessed Victor III, Pope and Confessor. » 198. Decree, by which the already established regulations concerning the month of October, for the recitation of the Rosary, and for the feast of the canonization of Claver, are again confirmed. » 243. Decree concerning Rothomagen, beatified, and canonized, the venerable Saint John the Baptist, of the Congregation of the Schools. » 245. Decree, by which it is declared that it is safe to proceed to the solemn beatification of the same Saint. » 246. Decree concerning the canonization of the blessed Alphonsus Rodriguez, Confessor, formed in the Society of Jesus. » 201. Decree concerning the beatification and canonization of the venerable servant of God, Father Felix, of Nicosia. » 248. Decree, by which it is declared that it is safe to proceed to the solemn canonization of the same Blessed. » 249. Decree concerning the canonization of the seven Blesseds, founders of the Order of the Servants of the Most Blessed Virgin. » 238. Acts, Volume XX, page (JCXL). Decree concerning the canonization of the Blessed John Berchmans, scholastic, of the Society of Jesus. » 250.

[*Latin ed. p. 642*]

642 A Decree concerning the safe proceeding towards the solemn canonization of the aforementioned Blessed Berchmans. 2, 5, 2 Concerning the Consistory held on June 1, 1888. 614 A Compendium of the life and miracles, as well as the acts in the cause of canonization of the seven Blessed Founders of the Order of Servants of the Most Blessed Virgin, confessors. 2, 9, 6 From the Sacred Congregation, an Index: A Compendium of the life, virtues, and miracles, as well as the acts in the cause of canonization of Blessed Alphonsus Rodriguez of the Society of Jesus. 4, 7, 0 A Rescript, in which three doubts concerning the Mass for the Dead, to be celebrated on the last Sunday of the coming September, are resolved. 5, 9, 2 From the Sacred Penitentiary Apostolic: Letters from the Major Penitentiary to the Bishops of Italy concerning the suppression of indulgences. 2, 0, 3 From the Acts of the Consistory: Concerning the Consistory held on November 25, 1887. 218 A Decree by which various books are prohibited. 303 Letters to the Most Reverend General of the Passionist Fathers, in which the Secretary presents the resolution of two doubts concerning those who read periodicals or books that defend heresy. 3, 6, 8 Two Letters to the Bishop of Barcelona concerning the pamphlet "El liberalismo es pecado" (Liberalism is sin). 414 From the Sacred Congregation of the Holy Roman Inquisition: A Decree by which several propositions from works recently published under the name of Anthony Rosmini Serbati are condemned. 397 Letters to the

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Ordinary of the places concerning matrimonial dispensations. 543

[*Latin ed. p. 643*]

INDEX GENERALIS CONCLUSIONUM QUAE IN PLERISQUE ACTIS IN HOC VOLUMINE CONTENTIS ADNOTATAE SUNT, QUARUM MATERIA IN SINGULIS ACTIS, AMPLE EXPOSITA, VEL DECLARATA REPERITUR. Eae autem conclusiones sub sequentibus verbis comprehenduntur.

Advenae: Appellatio: Applisatio Missae: Beneficium: Canonicus: Capitulum: Concursus: Parochus: Ecclesia paroecialis: Episcopus: Iudex: Iuspatronatus: Legitima portio: Matrimonium: Missa: Monasterium: Regulares: Resignatio: Sententia: Servitus: transitus: Sponsalia: Testamentum: narium remedium iuridicum; Advenae eo- quod sententia transit in reni iuAdvenarum et peregrinorum bre- dicatam et pro veritate habetur, ib-. pertinere Appellationes omnes offerri de- ad Cathedralem Ecclesiam pluries bent iudicibus ab iis, quorum in- resolvit S. G. C. praecipue si ius terest, hoc longa fulciatur consuetudine : tium, a recitatione sententiae nu- ex quo nullum iuris caput id prae- merandorum. ibid. viter cipiat, manendum funus intra decem Necessarium pag. 100. Advenae enim et peregrini quum non dierum spa- est provoca- tions auxilium à sententia, quae nec primam deseruerint paroeciam, lata fuerit contra legum canonum- nec novam acquisi ver int, ratio na- ve dispositum ; quia nulla parit ef- turalis ipsa innuit, funera eorum- dem explenda esse, praelative ad fectum, resque relinquit in sua integritate, ibid. alias paroecias, ab ecclesia principe Appellatio civitatis seu a cathedrali, ubi sedes mittitur tantum est Episcopi c. 6 caus. 13 q. 2. ib. appellatur, lata sententia; nam si Appellatio Lapsus fatalium ita nocet parti oretenus cum facta ad- incontinenti quis apud acta appellaverit satis est si dicat : appello, ibid. Etsi appellatio, tempore utili, gravatae a iudicis sententia, ut ei- facta sit, eadem perimitur, quate- dem parti non adsit amplius ordi- nus appellans intra annum ab ap-

INDEX GENERALIS of CONCLUSIONS noted in most of the ACTS contained in this VOLUME, the MATTER of which is amply EXPLAINED or DISCLOSED in each ACT. These conclusions are included under the following words:

Advenae (Strangers): Appellatio (Appeal): Applisatio Missae (Application of the Mass): Beneficium (Benefice): Canonicus (Canon): Capitulum (Chapter): Concursus (Concurrence): Parochus (Parish Priest): Ecclesia paroecialis (Parochial Church): Episcopus (Bishop): Iudex (Judge): Iuspatronatus (Patronage): Legitima portio (Legitimate Portion): Matrimonium (Marriage): Missa (Mass): Monasterium (Monastery): Regulares (Regulars): Resignatio (Resignation): Sententia (Sentence): Servitus (Servitude): transitus (Transition): Sponsalia (Betrothal): Testamentum (Testament): narium remedium iuridicum (Legal remedy for debts); Advenae eo- quod sententia transit in reni iuAdvenarum et peregrinorum bre- dicatam et pro

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veritate habetur, ib-. (Strangers, because the sentence passes to the affairs of strangers and pilgrims, and is held as true, ibid.); pertinere Appellationes omnes offerri de- ad Cathedralem Ecclesiam pluries bent iudicibus ab iis, quorum in- resolvit S. G. C. praecipue si ius tium, a recitatione sententiae nu- merandorum. ibid. (Appeals are to be offered to the Cathedral Church more often to the judges by those whose interests are involved, which is supported by long custom: from which no head of law should prevent it, from the recitation of sentences to be read. ibid.); viter cipiat, manendum funus intra decem (should begin, the funeral must be held within ten); Necessarium pag. 100. (Necessary, page 100). Advenae enim et peregrini quum non dierum spa- est provoca- tions auxilium à sententia, quae nec primam deseruerint paroeciam, lata fuerit contra legum canonum- nec novam acquisi ver int, ratio na- ve dispositum ; quia nulla parit ef- turalis ipsa innuit, funera eorum- dem explenda esse, praelative ad fectum, resque relinquit in sua integritate, ibid. (For strangers and pilgrims, if they have not abandoned the parish, and a sentence has not been issued against them according to the canons of law, nor have they acquired a new one, natural reason itself indicates that their funerals should be held, preferably in the principal church or in the cathedral, where the seat is located, only a sentence is sent; for if the Appeal of the city or the Bishop c. 6 caus. 13 q. 2. ib. (Appeal); Appellatio Lapsus fatalium ita nocet parti oretenus cum facta ad- incontinenti quis apud acta appellaverit satis est si dicat : appello, ibid. (The fatal error of the appeal so harms the party, that to that party there is no longer any remedy; if anyone immediately appeals at the records, it is sufficient if he says: "I appeal," ibid.); Etsi appellatio, tempore utili, facta sit, eadem perimitur, quate- nus appellans intra annum ab ap- (Although an appeal, made in due time, is made, the same is extinguished, as long as the appellant does not appeal within a year from the).

[*Latin ed. p. 644*]

644 GENERAL INDEX: If the petitioner does not present a title, it is permitted for him to, by means of deeds and documents, which have their place in the prior judgment by reason of entirely *gesta* given, so that some extrinsic cause may be perceived; or it may be said that another judgment is possible. Ibid. Remuneration for the second Mass: but, with the firm maintenance of the prohibition of receiving anything under the title of alms, Ibid. Application of the Mass: The priest who celebrates two Masses may apply the second Mass for a member of the sodality, towards whom he is bound by the law of charity, rather than by the law of justice; because from this concession, the discipline of the Church remains intact, which does not permit the acceptance of alms for the second Mass, page 40. From the title, page 49. By a memorable custom, it also happens that parish churches, which formerly were removable, change their status, if, by the lapse of time, the application of the Mass for the people cannot be performed, so that

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it was forbidden to receive alms for the second Mass, as they have been clothed. Page 50. It is indeed fitting for the orderly governance of ecclesiastical affairs, that all suspicion of avarice be repelled from sacred things, and finally, that what is just be done. Ibid. The parish priest is bound, either by himself or by another, to apply the Mass for the people, and as soon as possible; this obligation must be fulfilled, unless he has legitimately failed to do so on a feast day because of some impediment. Ibid. The application of the Mass for the people made by the parish priest, legitimately impedes the Church from being deprived of the alms received for the rights of the Church. Ibid. By law, it is certain that ecclesiastical benefices cannot be subjected to servitude; for the reason requires that those which are well constituted should not be diminished by contrary ordinances. Page 126. To, on another feast day when he celebrates two Masses, it seems to be contrary to the doctrine of justice and charity, which demand that the wills of testators be observed; the second Mass, then, adds something or takes away something for pious causes, according to the response of the Sacred Congregation, which orders that the Mass be applied as soon as possible. Ibid. Sometimes, for a cause, only the Roman Pontiff is valid according to their dispositions, Ibid.

[*Latin ed. p. 645*]

INDEX GENERALIS: Since dignities and honors are the reward of virtue, they ought to be conferred upon those who are virtuous and deserving, and not upon the guilty; for by promoting the unworthy, not only are the unworthy honored, but the honors and dignities themselves are dishonored. p. 197. In this matter, the law prescribes: "Neither shall the gates be opened to the infamous and notorious, and to those whom crime or the wickedness of their lives have defiled, and whom infamy separates from the company of honest men." And canon 87 states: "The gates of dignities shall not be opened to infants." ibid. All those who are accused and condemned of a public offense, such as treason, perjury, and adultery, incur the infamy of the law through the sentence of the judge. ibid. Those who are infamous, or irregular, and are excluded and suspended from ecclesiastical dignities and honors, are subject to canon 17, cause 6, question 1. p. 198. The canon of Tournus divides the duties and offices among the individual canons of the same order, so that from this division, a certain equality is established among all, and all contribute an equal share of service. p. 235. Regarding this matter, if no limiting clause is added when the chapter establishes a canon for a particular service or office, it is necessarily understood that this service or office is to be performed by each individual, in equal measure and for an equal period of time; for general words are to be understood generally. ibid. However, this division of duties with regard to the offices and services of the choir may vary from what it was originally, due to the changing circumstances; for it may happen that the number of canons in-

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creases through the institution of new benefices; or that it decreases due to the granting of indulgences, or due to prolonged infirmities. p. 236. When the conditions of the chapter vary, the division of duties ought to vary, and be adapted to the new circumstances, so that the service of the choir may be increased or decreased for each, according to what is added. ibid. In order that the service of the choir may not be neglected, it is the common practice that, with the addition of new members, a new division of duties is made, and that he who follows replaces the one who is lacking. ibid. This is also evident from the principles of law: for in making a division among many, the share of each is subordinate to the number of those who participate in the act of division. ibid. Also, in the service of the choir, something similar happens as in the case of legates; for if one of the legates is lacking, his share increases the share of the remaining legates, whatever their connection may be; so if one of those obligated to perform the service is lacking, his share increases the share of the others. ibid. A canon theologian does not fulfill his proper function unless he explains the sacred scriptures according to the mind of the Tri-

[*Latin ed. p. 646*]

646 INDEX GENERALIS: Concerning the reading of Scripture, lest that heavenly treasure, liberally transmitted by the Holy Spirit to men, lie neglected. p. 468. According to common law, nothing is prescribed regarding the number of readings to be taken; however, the Council of Rome in the year 1725 decreed that there should be forty such readings; this number cannot be reduced without special dispensation; S. C. Concilii, in una Balneor. VV.SS. LL. 9 Maii 1840. ibid. The *mulcta* (fine), to be paid by a negligent theologian, is provided for by the Constitution of Benedict XIII, *Pastoralis officii*, n. 4, through the words: "We decree that one-third of the revenues... be applied proportionally to the theological stipend... to each reading of Holy Scripture... so that if all the readings are attended, the assigned distributions will be complete; but if he is deficient in any or several readings, he will lose the distributions corresponding to the readings neglected." p. 469. It appears that one-third of the revenues should be taken from all the revenues of the canon theologian; for those which are added, unless otherwise noted in the grant, are considered to be an increase to the theological stipend, and not a reward or honorarium, by reason of the established office. ibid. Bishops can compel the Chapter and the clergy of Cathedrals and Collegiate churches to attend the scriptural readings, even with the addition of fines. ibid. A *pretium* (price) succeeds to the thing and takes the place of the thing, and has the nature of that in whose place it is substituted. p. 120. In ecclesiastical benefices, a clear distinction must be made between temporal rights and spiritual rights. p. 121. That which is actually done is of more value than that which is feigned. ibid. The rights of the Church should be measured not by the arbitrary will of

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secular power, but by the dispositions of ecclesiastical authority. ibid. The force of a proper confession is such that it precedes all appearance of proof. ibid. It is contrary to the nature of a mandate to grant something for that which has already been done, nor does it have effect unless it is followed by ratification from the one who issued the mandate. ibid. One is not to be heard who opposes a convention initiated by himself with the exception of error and ignorance, unless the causes of the error and ignorance are clearly demonstrated. ibid. There is no place for an excuse based on the head of ignorance, when one has foreseen or was obligated to know what he has done, and *paria sunt vel scire vel scire posse* (it is the same whether one knows or is able to know). ibid. A *syngrapha* (written agreement) signed before the Most Reverend Prothonotary should not be considered simply as a private agreement, but as an agreement accepted with apostolic authority, and therefore it has binding force also for successors in the benefice. ibid.

[*Latin ed. p. 647*]

INDEX GENERALIS

Concursus. Concursus: The law concerning the competition for benefices, especially those involving the care of souls, was promulgated because it is most fitting that the faithful be governed by worthy and suitable pastors. page 147. Hence, in the case of vacancies in parishes, if several candidates are presented, the Ordinary shall choose the one whom he judges to be most suitable in the Lord among the others, after the competition has been completed, ibid.

Parochial Church. According to the decree of the Council of Trent, Session 21, chapter 7, concerning parochial churches, even if they have a patron, those churches which require repair and restoration must be restored and repaired from the fruits and revenues pertaining to them in any way. page 277. If these fruits and revenues are not sufficient, the patrons or others who receive fruits from said churches, and in the absence of such, the parishioners themselves, must be compelled to contribute, with all appeals and objections removed, ibid. If, however, all are burdened by extreme poverty, in this case, it is necessary to transfer them to the mother church or to the nearest church, with the faculty of converting both said parochial churches, as well as other ruined churches, to profane, but not scandalous, uses, provided that a cross is erected there, page 278. The translation of a parochial church is not permitted for legitimate and canonical reasons, especially if the consent of anyone who has an interest is lacking, and if the translation would cause prejudice to a third party. ibid. It is not necessary to resort to the translation of a parish because of the number of parishioners, but provision can be made for the spiritual good of the parishioners

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through the ministry of parochial assistants, ibid.

Bishop. To avoid disturbances and scandals among the people, Bishops can, according to the decree of Trent, Reg. Sess. 25, chapter 13, and also according to common jurisprudence, settle disputes concerning matters of precedence, processions, and other sacred functions, either by a formal judgment, or even summarily and without any form of judgment. page 177. Bishops have the faculty, according to the decree of Trent, Session 21, chapter 6, concerning parochial churches, of appointing parochial assistants, and of assigning them a portion of the fruits for a sufficient livelihood, with all appeals removed, page 327. It is certain, according to the same decree of Trent, Session 24, chapter 13, concerning parochial churches, that a tax can be imposed on parochial churches whose revenues exceed the sum of one hundred guilders, ibid.

Judge. It is not permitted for a judge of the first instance, after completing the judgment, to...

[*Latin ed. p. 648*]

INDEX GENERALIS, consisting of 648 parts, establishes a two-month deadline for pursuing an appeal before the judge to whom the appeal is directed, page 524. Indeed, the law grants appellants a period of one year, calculated from the day the appeal is interposed, to pursue and conclude the appeal; if they fail to do so, with no just impediment, the appeal is considered abandoned, ibid. The Right of Patronage: It is established by law and by the constant discipline of the Church that benefices cannot be withdrawn from the free administration of the Apostolic See and of the Bishops, unless there is a full and legal reason; or merits of a more serious nature, page 70. Furthermore, the Council of Trent, Session 25, chapter 9 states: "Just as it is not right to take away the legitimate rights of patrons... so also it is not permissible to reduce ecclesiastical benefices to servitude," ibid. Consequently, many Doctors hold that three things are necessary to acquire patronage, namely, the endowment, the building, and the land; or that three conditions must concur cumulatively for the granting or recognition of patronage, namely, the foundation, the construction, and the endowment, ibid. Some maintain that only one of the three reasons is sufficient for granting or recognizing patronage, or that they recognize that, according to the Council of Trent, Session 25, chapter 9, concerning reforms, "either an increase in the endowment, or a new constitution, or another similar cause" is sufficient, ibid. The privilege of granting the right of patronage, which was taken away from the Bishops by the Council of Trent, Session 25, chapter 9, now belongs to the Apostolic See; which usually grants it under a burdensome title; namely, through a generosity exercised or to be exercised for the Church, ibid. A generosity exercised for the Church, leading to an increase in the endowment, was considered by the Fathers to be such that the Apostolic See granted the apostolic privilege of patronage

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in a parish church, ibid. Legitimate Portion of a Child: By law, a child, without descendants, must leave a legitimate portion to his parents, or, for a just cause, may disinherit them; if they fail to do so, the will may be invalidated by a complaint of an unconscionable will, page 157. This remedy of the law was introduced with the passage of time due to the abuse of the broad freedom granted to parents by the law regarding the full disposition of their property. ibid. The legislators who devised the remedy of the unconscionable will were considered to have been mistaken, because they unjustly hated nature, who excludes those who act contrary to the duty of piety towards their relatives, ibid. Marriage: According to the teaching of the canons, the oath of a woman that she cannot cohabit with a man has the force of...

[*Latin ed. p. 649*]

INDEX: Concerning whether a marriage can be declared null due to the lack of consummation, page 90. In contentious legal proceedings, the marital bond is sometimes relaxed based on the woman's testimony, confirmed by the testimony of seven witnesses. Ibid. Among the causes for a dispensation from a valid but unconsummated marriage, canonists also include the husband's impotence, even if only probable, coupled with the wife's integrity. Ibid. For a marriage to be entered into in truth, a legitimate consent is required, page 441. And it is called legitimate when it is true and free; or when the expression of the will, made manifest by sensible signs, is in conformity with the inner act of the will itself. Ibid. Therefore, a declaration made under duress and compulsion is a kind of fiction, because fear essentially impairs the faculty of the will, which consists in freedom, with which the will naturally develops. Ibid. The reverential fear of a mother who is strict is of the same gravity as the fear of a father; therefore, it also limits freedom and invalidates the marriage. Ibid. The opinion held by all Doctors is that a marriage entered into under grave fear, unjustly imposed by a free cause, is, unlike other contracts, null and void by its own right. Ibid. The reason for this distinction lies in the fact that the bond of marriage is perpetual; therefore, that which is contrary to this perpetuity destroys the marriage. Ibid. When assessing the quality of the fear, in addition to the gravity of the evil, consideration must be given to both the person to whom the fear is instilled and the person who imposes the fear. Ibid. In order for a marriage, invalid due to force and fear, to be ratified in the external forum by subsequent intercourse, two things are required: namely, intercourse with marital affection, and a long-lasting, mutual, and spontaneous cohabitation. Ibid. However, in the forum of conscience, even without any cohabitation, after the cause of fear has ceased, the marriage can be ratified if the will to ratify it is present. Ibid. Indeed, it cannot be validated either by intercourse with marital affection, nor by a long-lasting free cohabitation, but a new consent must be given before the parish priest and two witnesses,

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according to the norms of the Council of Trent, if the impediment is public. Ibid. A public impediment exists when it is known to the parish priest and two witnesses, or when it can be proven in the external forum by two witnesses who are over all age and to whom nothing can be opposed. Ibid. When it comes to the dissolution of marriage, which is a great sacrament, all diligence and caution must be exercised, so that, as far as human frailty allows, all error and fraud may be excluded. Ibid.

[*Latin ed. p. 650*]

650 INDEX GENERALIS. Ideoque, quaecumque, defensore matrimonii non legitime citato, aut intimato, in iudicio peracta fuerint, nulla, irrita, causa esse, ac pro nullis, causis ac irritis habentur, ibidem. Praedictus defensor, interrogatoria testibus ab ipso sive absentibus, per translationem et unionem unius monasterii ad alterum, bona quoque, iura et onera omnia illius sive propria ad hoc transferuntur et uniantur. Pagina 296. Et huic competunt, etiamsi monasterium in posterum, non nisi in actu examinis aperienda. Ibid. Bona enim non ab excussi sunt, iurare se vera dixisse, ante processus evulgaturos debent atque nunquam, publicationem, sive se ab Ordine Ordine in genere, sed in specie a singulis monasteriis possidentur, ibidem. Nihil agit contra iuramenti religionem monachus, qui, post interrogationes quam iureiurando promisisset, sese propositas, sive responsiones datas, neque alienaturum, neque ad aliud transiturum. Ibid. Interrogationes propositas et responsiones datas Cancellarius per extensum, eodem ordine cum ullum monasterium vel domum; preces S. Sedi, pro exemptione alicuius monasterii vel domus obtinenda porrigit. Praesertim si spirituale religiosorum et fidelium bonum exemptionem exegisse t. Ibid. In calce cuiuslibet examinis subscriptio testis, iudicis, defensoris gisse t. Ibid. Pecuniam religioso datam intuitu matrimonii et professionis in determinato monasterio emittendae mona- non est in re- ligiosi facultate ad aliud monasterium transferre; ex eo quod post Missa. professionem monasterium reliquit et ad aliud legitime se transtulit. Regulariter sacrificium Missae est applicandum fundatore, quia communiter verbum celebrare accipi solet pro ad significandum onus applicationis Missae; nisi aliud innuat testatoris voluntas, pressa, vel urgentibus conie- cturis ex elicita, pagina 529. vel ex- Ibid. Religiosus a monasterio, pro quo laborat, alimenta recipere debet. Ibid. Breve apostolicum non est obre- ptionis vel subreptionis vitio redarguendum, si summus Pontifex non inadvertentia, sed data o-

[*Latin ed. p. 651*]

INDEX: Those who have a share in the property are to be consulted, ibid. The Parish Priest: When the benefit of many should be preferred to the benefit or will of one; therefore, the Bishop is empowered by law to transfer a parish priest, even an innocent one, whose words no longer bear fruit among the people, who hate him, so that divine outrage or scandal

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may not arise. p. 141. It is commonly held that a cleric can be compelled to exchange his benefice with another, whenever a serious reason demands it, or if the cleric is less suitable to perform the duties of this benefice, or in some place; so that, who is less useful in one place, may be able to be more useful elsewhere, ibid. By law, a parish priest must be compelled to resign or exchange his position if he is involved in serious animosities, unless these animosities are appeased after a time, even without his fault. ibid. A transfer can also be made without fault for the good of souls, and this could certainly have happened in this case, since the parish priest had been accused and convicted of cruelty towards his people, of excessive exactions, and of a fury with which he repeatedly struck someone, thereby inciting hatred of himself among the people. p. 142. A cleric becomes irregularly suspended if he culpably performs an act forbidden to him by a suspension, previously threatened and subsequently imposed for an indefinite time, in order to break his obstinacy, because then the suspension is not simply a punishment, but a true censure, ibid. The greatest difference lies between habitual and actual care: the former, for he cannot exercise the care; the latter, on the other hand, actually exercises it; hence, a habitual parish priest is not a true parish priest, but only holds the title, which preserves certain rights for him. p. 453. Habitual care is considered as a simple benefice which is conferred without concurrence; while for actual care, the concurrence of the granting authority is required; for the same care, the patronage rights require an examination of suitability, ibid. The parish priest must bury his parishioners and all others residing within the parish who die without a special disposition for burial, in his parish church, p. 591. However, those who may choose to be buried elsewhere, or who have a tomb in which their ancestors have been accustomed to be buried from ancient times, are to be excepted. In this case, the fourth part [of the expenses] must be paid to the parish priest as a reward for the burden he bears in the administration of the sacred rites, ibid. At funerals, only one cross must be raised, that of the church to which the body is brought, ibid. A parish priest cannot, in the association of bodies, consecrate churches.

[*Latin ed. p. 652*]

682 GENERAL INDEX: To enter with a stole and raised cross, and to perform the office and functions there, ibid. The funeral rite indicates a jurisdiction which cannot be exercised in places and in churches legitimately exempt, ibid. Once the coffin has been placed at the doors of the church and the final farewells have been spoken, the parish priest cannot interfere in those ministrations which are to be performed afterwards concerning the body, because the parish priest's jurisdiction, once terminated, cannot revive, ibid. Therefore, after the funeral, it belongs to the rector of the church where the funeral took place to carry the body to the common cemetery, even against the will of the parish priest, because the right to bury cannot be

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separated from the right to inter, ibid. Through public cemeteries, recently established, the rights of churches and the faithful concerning funerals are in no way considered to be extinguished, ibid. Therefore, a church which had the right to bury in its own burial grounds, does not exercise that right in the public cemetery, but the place of burial has been changed, ibid. Indeed, the extinction of a religious Order cannot be considered to mean the extinction of the right to burial obtained in a sacred place, since the right to bury is related to the temple, and the burial ground belongs to it, ibid. Concerning the right of burial granted, all other things which proceed from it are also considered to be granted; namely, the solemn procession of the deceased, the celebration for the deceased, and the right to receive the emoluments of the funeral; because the emoluments are related to the work performed, ibid. In oratories under the patronage of laymen, non-parochial functions can be celebrated independently of the parish priest, according to the form of the decrees of the Sacred Congregation of Rites of the City and the World, dated December 10, 1703, n. 592. The strictly parochial rights consist in the right to collect tithes and offerings, and also in the obligation to receive the sacrament of the Eucharist from the parishioners on Easter Day, and to administer the sacraments usually given to the dying, ibid. The parishioners cannot, at their own discretion, injure the rights of their parish priest, among which the right to bury must be considered, ibid. Regular Conventions, initiated by religious without the approval of the Apostolic See, are not valid, page 107. Nor is it sufficient for them to be validated if the Bishop has approved them, but the approval of the Holy See is absolutely required, ibid. And such approval is required even if it concerns conventions of religious who, for a time, are forced to live outside the cloister and in private houses, as if secularized, page 108. The Third Order of St. Francis can be equated with religious Orders; therefore, it enjoys the rights, exemptions, and privileges proper to religious Orders, ibid.

[*Latin ed. p. 653*]

INDE* Concerning the rights and privileges of regular canons regarding funerals, these are the following: to carry the bodies from their own churches to the cemetery, without the intervention of the parish priest; to proceed to the tomb with their own stole and cross, even when passing through parishes, provided they do so without pomp and in a direct manner. Ibid. Conversely, the rights of parish priests concerning their deceased, according to the Roman Ritual - Order of Exequies - are these: to bring the stole, to remove the bodies from the house, to sprinkle them with holy water, to chant the antiphon "Exultabunt," and to lead the funeral procession to the entrance of the burial church, whether it be secular or regular. Ibid. In matters concerning funerals, custom carries much weight; however, it cannot be extended from one diocese to another. Furthermore, this extension

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is not granted even within the same diocese, and indeed not even within the same chapter, from one act to another. Ibid. It is clear that bishops can prevent clergy who have received benefices, and others who are assigned to a specific place, from leaving, abandoning their church, and dedicating themselves to the service of another church, without the permission of the Ordinary. Page 34. Since a cleric, by accepting a benefice and possessing it, remains bound to the Church, it is generally accepted that no one can resign their own benefice, except in the hands of the superior who grants it, especially if the Church would suffer harm. Ibid. A res judicata arises from two concurring judgments rendered on the same controversy. Page 491. A judgment that becomes res judicata has such authority that it can make something be as if it were not, and a falsehood be as if it were true, and a white thing be as if it were black. Ibid. Therefore, it is subject to the exception of *litis finitae* and is considered true; but also, any proof to the contrary is rejected. Ibid. Indeed, even under the pretext of a newly discovered instrument, it cannot be withdrawn, lest inexplicable difficulties arise from discordant or even mutually contradictory judgments. Ibid. The exception of *res judicata* so impedes the entry of a case that it is not the judge's duty to inquire whether the judgment was well or poorly rendered. Ibid. A judge who, after having heard the opposition of the exception of *res judicata*, again examines the case and renders a judgment contrary to the previous one, does nothing of consequence; the subsequent judgment is itself null and void by law, and the authority of the previous judgment remains. Ibid. The same principle applies to connected matters; the accessory must follow the nature of the principal. Page 492. A final and unappealable judgment rendered by a delegated judge must be delivered for execution, even if it is not...

[*Latin ed. p. 654*]

654 GENERAL INDEX: would not be just or valid; because nature and the force of this very key demand it. #. 514. Only in one case can such a decision be necessary for legitimate execution of the law, namely, if the Prince has admitted a certain appeal. ibid. It often happens concerning the meaning of words, ibid. An appeal from the sentence of a delegated judge must be made to the delegating authority, not to the delegated judge. ibid. The ordinary judge, if he has rendered a sentence that is invalid and null, can revoke it and re-examine the case, because the ordinary jurisdiction remains his; he has jurisdiction over the case itself, but a final sentence, once rendered, makes the judge cease to be a judge in that case, and therefore he can no longer investigate further, because those who are contumacious rely on the presumption that the contumacious party has either waived his right, or has admitted as true and just whatever has been presented or requested by the opposing party. ibid. Therefore, a contumacious party, who has purged the contempt by alleging a just cause for absence, eliminates

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the presumption against himself, and the delegated judge is not bound by it. ibid. Contumacious parties are not subject to penalties for contempt unless they are legitimately subject to the jurisdiction, whether they have performed their office well or poorly. ibid. And if, through an injury, someone becomes richer, the reason for this difference lies in the fact that the ordinary jurisdiction restores to the other everything in which the former has become richer, ibid., and therefore it is more favorable to the latter than to the delegated jurisdiction, ibid. Furthermore, it is in accordance with natural law that a parish priest holding a collegiate benefice should contribute and share with the canons and other capitulars, and in accordance with the laws of the Kingdom of Italy, it is not required that the canons or participants demonstrate that the parish priest has caused them damage from this profit, but it is sufficient to demonstrate that he has received profit from such laws. ibid. And in summary proceedings, in order to avoid lengthy litigation, certain formalities are omitted, but only those that have been established by positive law; not those that are in accordance with natural law.

Servitude, as a burden on property, is inherently odious.

[*Latin ed. p. 655*]

INDEX C SERALIS 655: Whether the necessity or at least the utility, of a servitude imposed by one who is subject to it, must be demonstrated, p. 354. It is not, however, necessary for him who grants it to demonstrate this. A longer route does not provide a suitable title for establishing a servitude; therefore, it should not be alleged as a reason for establishing a servitude, but if one proves that he has a legal right to use a path, even if it is longer and less convenient, this is sufficient. ibid. It is not sufficient merely to state that a servitude existed; it must be proven with sufficient evidence. ibid. A lessee can establish a servitude of passage through the leased property; however, any thing that exists in its own right must have a free origin, ibid. For it cannot be derived from alien things, nor from buildings, ibid. Neither the silence of the owner, nor his tacit consent with the user, ever adds to the validity of a servitude, ibid. Every servitude is extinguished and ceases; from the fact that a thing cannot serve two masters, p. 355. A simple use of a property does not harm the owner, but when the owner of the property begins to be considered the servant, when, that is to say, the use of the property is made between relatives, or even between friends or neighbors, this does not establish a servitude by prescription, but it should be presumed that the use was made with the consent of the owner. ibid. A servitude, once extinguished by prescription, does not revive by separation, unless it has been agreed upon in a contract that it should be renewed. ibid. ibid. Betrothal. A servitude of passage is among those that are called discontinuous, because it requires that the action of the person using the path be completed, which cannot be continuous, ibid. And for

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it to be established by prescription, it is not sufficient that the time be ten, twenty, or even thirty years, but a time that is unmemorable, or a very long time, is required, p. 377. ibid. And all the more so is the man compelled to marry a deflowered woman. In only one case can this kind of servitude be prescribed in ten, twenty, and thirty years, namely, when children have been born from such a union, because of the woman's shame, ibid. If, however, a woman has been violated after prior betrothal and promises, and after several subsequent...

[*Latin ed. p. 656*]

IN INDIA. A woman, having lived with a man for fifty-six years under a promise of marriage, and having borne him children from that union, yet if hatred arises between the betrothed, the man who made the promise is to be considered thrice bound. Ibid. The pious dispositions and, especially, the bequests of the faithful must be considered directly in relation to marriages, lest the institutions established for the life of the clergy and the less happy service of the divine cult, which naturally depend on the supreme authority of the Pontiff, should be undermined. Ibid. The testator, when making a will, states the law concerning what follows. Therefore, just and necessary causes are given for the testator's will to be considered, and it is utterly necessary to adhere to the will of the testator, as long as it is not contrary to the laws of God, and it is forbidden to make exceptions to it, even at the point of death, according to common law. Page 189. In order for the will to have the force of law, the testator's intentions must be expressed repeatedly to young clerics, without distinction, in the house of God, for the detriment of the divine cult, and with the impossibility of performing sacred ministrations. Ibid. Such a derogation is most strictly observed only in the case of the testator's will, which, having been duly made in a testament, is expressed; but this will is not at all considered, whenever it is not expressed in a manner that can help those who, through letters and legal means, are able to serve the bishops, and which is not in the likeness of the law. Ibid. In resolving questions that may arise concerning the testator's dispositions, the Roman Pontiff sometimes judges, page 284. The testator's last will and testament has the force of law, provided that he does not command anything shameful, and the testator's intentions must be kept in mind. Ibid. And if, for some reason, it is not clear enough, it can be clarified by asking third parties, and it does not derogate from the will, nor does it require consent, but rather, if it seems to require consent, it must take its norm from the expressed will of God, or from the divine cult, or from the supreme good of the salvation of souls. Ibid.

IMPRIMATUR — Fr. Raphael Pierotti O. P. S. P. A. Magister.

IMPRIMATUR — Iulius Lenti Patriar. Constantinopolit. Vicesg. domus.

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